

IMPACTS OF ARMED CONFLICT ON COMMUNITY-BASED NATURAL RESOURCES MANAGEMENT SYSTEM IN NEPAL

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ABSTRACT

In many areas with community-based natural resource management (CBNRM) systems, local communities are the owners as well as managers of natural resources. Often they have developed these CBNRM systems as a result of their own efforts, experiences, knowledge and customary practices for the management of their natural resources.

In Nepal it has taken many decades for the state to recognize these systems and the rights of communities over their natural resources. The decentralized legal system of Nepal allows for legal recognition of Community Forest User Groups (CFUGs) and other CBNRM groups for natural resource management at the local level. The rights of these communities is not limited only to the management of natural resources, but also to contributing to local development and enhancing the livelihoods and justice for local people.

Unfortunately, armed conflict in various parts of South Asia, including Nepal, has been creating enormous impacts on people's lives, communities, and the environment. In the context of Nepal, armed conflict was started for political reasons 10 years ago and ever since it has been had immense impacts on CBNRM systems.

Large amounts of financial resources and valuable forest products generated in CBNRM groups have been captured by Maoist revolutionary groups. The military administration has also imposed a government order to close the bank accounts and ban the marketing of forest products of these CFUGs. As a result, both conflicting parties are preventing the exercise of democracy at the community level and additionally they are both violating community rights over natural resources. The revolutionary groups and the militarized government are also demanding financial resources from CBNRM groups in the form of donation and taxes respectively.

The strategies and activities of both conflicting groups have had enormous impacts on CBNRM systems and its direct and indirect impacts are connected with the disturbances and negative impacts on local development and livelihoods, particularly of ethnic groups, poor people and women. Armed Conflicts have also affected the marketing of forest products and other natural resources on local, national as well as international levels.

As the result of armed conflict in Nepal, CBNRM systems are deteriorating and less able to meet their goals of sustainable management of natural resources at local levels; it creates economic crisis, environmental degradation and violation of rights of local communities over their natural resources. This paper is analyzed the impacts of armed conflict on CF/CFUGs and others CBNRM systems in Nepal and the result of these impacts on human life and environment.

Key words: community forest, community forest user groups, armed conflict, natural resource, community development, community rights

1. INTRODUCTION

1.1 Background

The commencement of armed conflict between Maoist insurgent and government crossed one decade in Nepal. During this period, 8,457 victims from government and 4,733 victims from Maoist insurgent lost their lives¹. Instead, it has been seen that severe loss of physical, economical, cultural and natural resources have continually taking place in Nepal². Natural resources that are directly linked with the livelihood of the community people, the resource manager (community) and their rights are also disturbed and violated in this period. These facts and figures have been publishing continuously. Community Forestry User Groups (CFUGs) are voicing up about the serious effect especially on the movement of Community Forest (CF) particularly after the collapse of 2nd peace talk between Maoist and government in 2003.

The movement of Nepalese Community Forestry does not have direct relationship with political interest. The objectives of the Community Forestry are solely to support rural community livelihood through sustainable forest management and to establish and maintain good forest governance within the community³. It thus clearly proved that any types of programs and activities that are conducted by CFUGs neither affect nor reinforce political ideology. But campaign or movement of CFUGs regularly stimulates government and political parties to be accountable and responsible over Community Forestry programs.

CFUGs have continually been affected by the armed conflict though they are campaigning for community right over natural resources beyond the political ideology. Both governments as well as Maoist insurgent are equally responsible for affecting the Community Forest and rights of CFUG. Controlling behaves and illegal capturing over forest resources and the property of CFUGs from both sides since past several years proves their irresponsibility.

The communist movement was emerged from 1947 in Nepal⁴. Communist Party and all other political parties were engaged in Joint People's Agitation in 1950 and 1990. Thus all communist parties internalized parliamentary systems after the restoration of democracy in Nepal. But some communist parties that were very near to the Maoist ideology were conducting agitation through Joint National People's Agitation. So those communist parties disagreed with the tri-parties (King, Nepali Congress and United Leftist Front) agreement and announced the continuation of peace agitation against restoration of multi-party system based on power balance between the king, Nepali Congress and United Leftist Front in 1990. Nevertheless, Members elected from liberal type of communist party (Communist Party of Nepal, United Marxist and Leninist - CPN [UML]) and United People's Front (Maoist ideology affected communist party) taken place 2nd and 3rd position in the House of Representative in 1991.

Most communist parties of Nepal have same motto about people's right and livelihood. United People's Front (UPF) had continually risen up voices in the Parliament about not addressing and transforming the people's right and their livelihood. Therefore, United People's Front decided that there was no any serious attention of government to address the issues rose by UPF and submitted 40 points demands to the government in 1996. But the government did not take such demand seriously and Maoist started people's war by attacking over security forces and government structure.

In this way, the Maoist people's war started from 1996 ultimately transformed into the armed conflict between Maoist and the Nepalese government. The conflict not only raised political and legal crisis but it also created severe crisis over people's livelihood related physical, socio-economic and cultural sectors including all sector in Nepal. The movement of Community Forest, one of the single most achievements after restoration of democracy in Nepal has also been ultimately became the victim of this armed conflict. After the collapse of 2nd peace talk between government and Maoist insurgent, Maoist started to use Community Forest as rural base economic resource for the armed struggle with government. The Government also tried to apply the strategy of not handing over the Community Forest area to CFUGs and prohibition and control of economic resources and forest products of CFUGs. Community Forest Users' Groups needs to explore and publish the challenges appeared in this extreme scenario. Thus this study tries to explore and analyze the strategies of conflicting parties to intervene the rights of CFUGs and it's consequences over local community in brief.

1.2 Armed Conflict and Natural Resources

More than thirty armed insurgent groups are into existence in the Hindu Kush Himalayan region⁵. These armed groups are struggling for political transformation and establishment the rights of indigenous/ethnic and marginalized groups in this region. As per the political analyst, one of the main purposes of Maoist people's war is the political transformation. But most demand raised by Maoist insurgent is directly related to the people's daily livelihood. Thus the relationship of the armed conflict is also related with the right of people over natural resource, management and benefit sharing mechanism of it's directly or indirectly. University of Toronto has studied over 10 cases of conflict in developing countries in 1997. They concluded following three principal factors to increase conflict:

- Degradation and depletion of a key natural resources,
- Population growth that increase resource demands,
- Disproportionate allocation of the resources within society.

The study finds out that there is relationship between natural resources depletion, poverty and armed conflict, which ultimately break and destroy state stability and integrity⁶.

Increasing environmental depletion and poverty are very much supportive to rise up the insurgent and armed conflict, though the medium of conflict management is political power balance. Major hidden source of conflict is lack of access of marginalized groups in socio-economic and cultural aspects due to environmental depletion. The study also proved that armed conflict in most developing countries are playing crucial role for environmental depletion⁷. Several studies proved the same condition in Nepal⁸. It is because serious intervention on forest, wildlife and bio-diversity happens mostly in political unstable period⁹.

1.3 Human Rights and Community Forestry

According to human right perspective, socio-economic and cultural rights are 2nd and peace; development and environmental justice are taken as 3rd generation human rights. Nepalese movements of Community Forest rights represent both 2nd and 3rd generation human rights. It is because CFUGs were promoting their socio-economic and cultural rights including peace, development and environmental justice in community level until the early stage of armed conflict.

By this situation, the movement of Community Forestry has been proved as major milestone to promote human rights in Nepal. Nevertheless, both government and Maoist insurgent should accept rights of Community Forest as human rights. Because human right related international instrument accept the rights of people over natural resource as human rights that is related with the livelihood of people. Some weaknesses are still seen in the Nepalese Community Forest movement, but it has been definitely supporting to exercise human rights related provisions, ensures community development, promotion of environmental justice and strengthens of community cooperation. So we should not forget international covenant and protocol on human rights at the time of analysis of Nepalese Community Forest and its relation to human rights. Some provisions are stated in the following covenants and protocols, which are directly or indirectly related to the right of Community Forest as worldwide and effective means of creating people's right over natural resources:

Human Rights related documents	Provisions
International Covenant on Economic, Social and Cultural Rights, 1966	Art. 1(2): All peoples may, for their own ends, freely dispose of their natural wealth and resources. In no case may a people be deprived of its own means of subsistence.
Protocol II Additional to the Geneva Convention of 1949 and relating to the Protection of Victims of Internal Armed Conflicts, 1977	Art. 14: Starvation of civilians as a method of warfare is prohibited. It is prohibited to attack, destroy, remove or render useless objects in warfare to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works
Protocol I Additional to the Geneva Convention of 1949 and relating to the Protection of Victims of International Armed Conflicts, 1977	Art. 35(3): Basic Rules of warfare: It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the environment.
Protocol III to UN Conventional Weapons Convention on Prohibition or Restriction on the Use of Incendiary Weapons, 1980	Art. 2(4): It is prohibited to attack by incendiary weapons in forest or other kinds of plants cover.

1.4 Rights of Community Forest in Nepal

According to the Human Right Declaration 1948, freedom from fear is the worldwide norms of human rights¹⁰. Lack of livelihood supportive natural resources makes room for armed conflict is the worldwide-established fact. The practice of community forestry has been evolved to manage the natural resources in sustainable way and handing over these resources to future generation without loss of integrity. Despite, there are community agitations worldwide to translate this concept into national agenda. As a result, different states have been providing legal recognition to Community Forest in different structure and framework¹¹.

All nations have to formulate policies and programs to establish people right over natural resource as per the action plan of Stockholm Conference on the Human Environment, 1972. The Government of Nepal was developed the concept of Panchayat¹² Forest in 1978. In this process, people have been used as free of cost labor in the name of people's participation in forest protection. Nevertheless, government accepted principally the right of people over near by forest resource in National Conservation Strategy 1988 and Master Plan for Forestry Sector 1989¹³. These two documents were prepared by the government for implementation of Stockholm action

plan and World Conservation Strategy issued by United Nation in 1982. Nepalese Parliament was enacted Forest Act in 1993 in which rights of Community Forest has legally guaranteed.

In this way, Nepalese government has accepted the right of Community Forest as legally and it is recognized people's rights over community forest management system. Forest laws have accepted Community Forest program as the priority forest management system among five different management models¹⁴. Community Forest program has been established as one of the major parts in rural livelihood generation from last 27 years informally and since 1990 formally. But after the emergence of armed conflict between Maoist and government, it has becoming victim from both sides. So CFUGs have been starting to raise and explore the voice strongly against such control and intervention from both conflicting parties.

Apart from supply of basic forest products of local user's, forest policy clearly envisioned Community Forest as a means of sustainable management of forest, people's participation in benefit sharing and decision making process as well as socio-economic development¹⁵. But government understood CF as only means for fulfillment of basic forest product to local people. As a result, there are increasing number of conflicts between government and communities regularly. Master Plan for Forestry Sector 1988, one of the major guiding policies in the forest management forecasted the present situation before 18 years. It indicated that if there is no room for upliftment of people's standard, the peace and prosperity of the country may collapse and it is very truth in the countries like Nepal. Despite basic forest need have been fulfilled, Nepal has been facing same problem in these days.

1.5 Maoist Policy on Natural Resource Management

Maoist is repeatedly claiming the existence of dwell-ruling system in Nepal after proclamation of "United Revolutionary People's Council" in 2001. Minimum Common Policy and Programs endorsed by United Revolutionary People's Council is taken as New People's Democratic state ruling policy that was published in 2001. Maoist rose strongly about the issue of people's interest in parliament and government before commencement of armed struggle and repeated the same during peace talk with government. Despite, Maoist is silent in establishment of community-based natural resource management system control by local community. Followings are some

MAOIST DEMANDS AND COMMUNITY FOREST

Forty-point demand submitted by United People's Front in 1996:

C. Demands related to livelihood:

37. It should maintain drinking water, roads and electricity in every village,
38. It should protect and gives privilege to cottage and small industries (Not included any demands for Community Forest)

Demand submitted by Maoist during the 1st peace talk in 2001:

It should fulfill the demands of people of all sector and level (Not submitted or forwarded any visions and demands for CF or natural resource management)

Demand submitted by Maoist during the 2nd peace talk in 2003:

Goal: To guarantee the human and fundamental rights of all peoples specially those who are poor, marginalized and exploited.

Fundamental Character of New Constitution: To adopt the policy for the protection of all types of resources and national capital

National and Socio-economic issues: It should develop and implement the plan of infrastructure such as drinking water, road, bridge and electricity in accelerating way. (Not included any demands for CF)

points of the Minimum Common Policy and Program endorsed by United Revolutionary People's Council:

- Forest and natural resources will be kept as public possession under the ownership of local people's government;
- Integrated, balanced and interrelated policy will be imply for the management and distribution of natural resources;
- Local people's government may prepare and implement self site specific forest plan on the basis of local context and necessary according to the provision stated in forest related directive prepared by United Revolutionary People's Council.

Maoist did not publish their vision about Community Forest in their Minimum Common Policy and Programs though they controlled Community Forest previously. Thus CFUGs started to oppose the Maoist policy on CF program. Therefore, the latest directives, Maoist published their policy about CF program in which they accepted principally the concept of CF. Maoist stated three types of forest management system in this directive to implement in Nepal namely: National Forest, Community Forest and Cooperative Production Forest.

1.6 Comparison of Government vs. Maoist policy on CF management

It is seen that Maoist and government both conflicting parties have principally accepted the right of Community Forest and autonomy of User Groups. But both parties are attacking on CF in favor of their own interest against existence of CF and autonomy of CFUGs. There are most similarities between Maoist and government policy over CF management in Nepal, which are as follows:

Subject	Government Policy	Maoist Policy
Management System	Government managed forest, Protected forest, Community Forest, Leasehold forest and Religious Forest	National forest, Community Forest and Cooperative Production Forest
Development Concept	Fulfillment of basic forest products to local community	Priority for supply of basic forest products
Participation	Management of nearby forest by people's participation	Management of nearby forest by people's participation
Recognition of traditional right	Traditional right of collection of fuel wood and leaf litter free of cost will be managed by people's self decision and management plan	Traditional right of collection of fuel wood and leaf litter free of cost will be managed through people's decision and operational plans.
Facilitation	Primary role of government field staff will be to advice and assist people for sustainable use and management of forest	Primary role of local people's government will be to advice and assist people in management and use of small patch of forest
Protection	Protection and management of environment, ecosystem, National Parks, Wildlife reserve etc	Protection and management of environment, ecosystem, national park, wildlife reserve etc.
Marketing	Establishments of Cooperatives for Production and development of Jadibuti (NTFPs) all over the nation. (Stated in Herbs/NTFP Policy 2005)	Production of NTFPs through cooperatives as well as coordination of industrial price and forest products.
Donor Support	Department of Forest and CFUGs can take foreign aids for Community Forest development.	Grants from favorable group of donors can be accepted

In this way, there is no theoretical difference between government and Maoist policy on CF management. The only difference can be seen in structural system. For example: government wants to manage the low-land (Terai) forest as collaborative forest management system in which people's participation is wished to protect the forest but government deserves control on one hand and Maoist policy is to mobilize forest security guards with arm on the basis of people's participation on the other. Similarly, government policy is to continue the forest administration process to control the management power and Maoist intends to establish forest administration as per the requirement. So Maoist and government both are hesitating to establish rights of people on forest and want to control over the valuable forest resources through forest administration.

2. GOVERNMENT'S INTERVENTION IN CF RIGHT DURING ARMED CONFLICT

2.1 Security Forces in Community Forest

Formerly there was the practice of keeping close the information about the forestland provided decision to Royal Army in Nepal. Several conflicts among local community and army were come into existence due to non-transparent decision of government to provide the forest land to army. So to overcome such conflict, government started to publish details about the forest area to be provided to army through gazette notification. During this process, a notice was published first time in 1998 in the gazette of government to provide 22 places of 19 districts to the army.

Practice of providing forest area to army without consultation with affected people and unclear information about the nature of these forests created several conflicts between army and local community. Some of such conflicts were also come to the court. *Kuyepani* CFUG of Doti district filed a writ petition in Supreme Court against the *Prithvi* army camp Rajpur Barrack of *Dipayal*. The Supreme Court decided as kept in the box.

VERDICT OF SUPREME COURT

In the context and situation of registered of CFUG and handed over of CF, under the article 25 of Forest Act, 1993, it is appropriate to conduct shooting or army exercise and forest utilization by CFUG on the basis of coordinated and supplementary way by avoiding the obstruction between each others. It is required to exercise and shooting by army without creation of any obstacles to CFUG for the utilization of their legal rights over forest resources as well as CFUG also does not create the obstacle to army exercise. For this purpose, this writ of mandamus is hereby issued in the name of Ministry of Security to give appropriate order to the concerned division of army regiment for the arrangement of army exercise only after the fixation of time of exercise on the basis of close coordination with concerned VDC and CFUG.

Source: Supreme Court Bulletin, 2057, Year 9, Vol. 23, Issue 209

NECESSITY OF PRE-INFORMATION

This is published to inform general public about the declaration of the forest area for the purpose of army exercise and shooting without deteriorating the integrity of the environmental conditions by at least 7 days before informing local government for the purpose of public security. And in other time as stated in the notification, local people can use the forest resources.

Before the decision of Supreme Court, government used to publish gazette notification about the use of forest and army can use those forests without informing to local community and as per their need and interest. After the court decision, government started to mention the provision as written in the box along with the gazette notification.

According to the provisions of gazette notification after the court decision, it is require informing to local

government and administration before entering into forest area and make consensus with them for the army exercise. But it is not translated into practice. Instead, army controlled other Community Forest area neglecting the provisions of gazette notification and court decision.

Ministry of Forest and Soil Conservation (MoFSC) stated that government has provided 3000 hectares of Community Forest area to security force (army) in all over the country¹⁶. But this figure is not seemed actual data based. Government provided 35,608-hectare forest area in different 48 places of 37 districts by publishing in the gazette¹⁷. Apart from this, army has been encroaching the CF area of 96 CFUGs of 16 districts.

Government provides forest area to army under the provision stated in Government Land-use Right Transform Procedure 1993 and it is included in Land Administration Procedure 2005. As against the provision stated in the above mentioned procedure, the cabinet provided forestland in order of army and recommendation by MoFSC. But CFUGs are unable to rise their voice to concerned authority due to the lack of disclose the procedure. But CFUGs are opposing the government decision of providing Community Forest area to army.

ARMY TRAINING IN COMMUNITY FOREST

Government declared forest area of *Baluwapani, Deupur, Nala, Tukucha, Ugrachandi, Devitar* and *Nayagaon* VDC of *Kavre* district and *Nagarkot, Sundal* and *Bageswori* VDC of *Bhaktapur* district as army training area in 2000. The forest of these 8 VDCs were continually managed and use by the nearby local community. Despite, army conducted training in the Community Forest area from very beginning. Local users do not have any option except to oppose over the government decision, as there was no forest to use forest products for daily need. It is because 3 local people already lost their lives by army during training in forest. Additionally, people who were burning dead bodies were compelled to go away leaving the half burnt body. Triennial Hindu festival, Diwali has been stopped. Hile Jaljale CFUG of this area has continually been rising up voices against army intervention in Community Forest. But the CFUG has been facing lots problem, as usual even today.

Source: Documents submitted to prime minister by CFUG, 2000

These efforts of CFUGs are running through local level campaign and writ petition in the various levels of court. There is no any appraisal of oppose and protect conducted by CFUGs against government's decision¹⁸.

Apart from army's intervention in CF, the armed police force is also capturing the CF area and it forest resources, even there is no any records of governmental intervention in CF for keeping armed police force inside Community Forest area. It is because government neither publishes notice in gazette nor public about the provision of providing forest area for establishment of armed police station. Similarly illegal control over forest

ILLEGAL INTERVENTION OVER SACRIFICED CF

Gadibaraha CFUG situated Tulsipur municipality-2 at Dang field application to the government against illegal capture of Community Forest area by army in 2005. But the forest users are afraid again because army demanded Community Forest to establish army barrack inside the CF area this year. Forest Users are opposing to establish army barrack in the CF area. The conflict between security force and local community has been increased after numbering the trees of Gadibaraha CF by army. The Gadibaraha CF was totally necked during 1989 but users of this forest transformed the barren land into green forest after taking as Community Forest. They did not forget the struggle with forest administration for taking as CF. There is no official records that how many times they visited government office. They saluted rangers and forest officer several times. Forest Users are still can not forget the challenges, threat and fear faced during CF protection. Most users have become sad when they remember the murder of 55 years old forest user Mrs. khumadevi khatri by forest smuggler. Despite of army intervention in this CF, the Forest Users are encouragingly announcing "we will not allow army to confiscate our forest because the forest became greenery by the toils and blood of us".

resource of CF, collection of fuel wood and timber in free of cost, encroachment of CF areas and control of water resource inside Community Forest by security forces (army and armed police) are seen regularly all over the nation and because as simple events due to high frequency of occurrence. Thus it won't justifiable and useful to calculate the actual data.

2.2 Air borne attack in Community Forest

Protocol I Additional to the Geneva Convention of 1949 and Protocol III to UN Conventional Weapons Convention on Prohibition or Restriction on the Use of Incendiary Weapons, 1980 are very important during the armed conflict. The protocol I of Geneva Convention prohibited employing methods of means of warfare which are intended, or may be expected, to cause widespread, long-term and sever damage to the environment. This is the basic rules of warfare. Protocol III to UN Conventional Weapons Convention also prohibited to attack by incendiary weapons in forest or other kinds of plants cover. But, government of Nepal is using prohibited methods of means of warfare to attack nearby district headquarters forest area in suspense of being Maoist insurgent inside the forest. As a result, the facts of forest degradation, and depletion of bio-diversity by such attacks have previously been exposed in Nepal.

Government conducted air borne attack to Maoist in nearby district headquarter forest areas after attacked by Maoist in district headquarter of Myagdi in 2004. Due to air borne attack in Community Forest areas, where local people have to go to collect daily needs of forest products; the fire occurred and came into existence for several days at that area¹⁹. Same condition happened in the various forest areas of Nawalparasi, Arghakhachi, Palpa and Tanahu districts and most of the forest areas have burnt out. In this way, the rights of CFUGs have been deteriorating day by day due to severe air borne attack and bomb blast in mid and far western region. Such attacks seriously affected the rights of indigenous\ethnic community and NTFP-based livelihood system of these communities.

Community Forest areas have been destroying regular fire cause by armed conflict. This also proves that the weapons used from both government and Maoist insurgent are inflammable in any way. Even government is not following the provisions of rule of warfare and conducting various activities against the provisions of international law is seen.

2.3 Condition of CF in state of emergency

Government has been declared and withdrawn state of emergency from time to time after beginning of armed conflict in Nepal. But CFUGs are compelled to face state of emergency continuously. Every CFUGs have rights and duties to organize mass meeting but it is prohibited during the state of emergency²⁰. Community Forest is such legal systems that cannot be manage and organize without annual mass meeting. But such legal and constitutional rights of forest users have continually seen hindered due to the state of emergency and regular prohibition notices. Such irregular emergency and prohibition has been disturbing the movement and rights of Community Forest, one of the foundations of democratic exercise in Nepal. District committees of the United Revolutionary People's Council (Maoist) are also hindering the process of CFUG mass meeting and democratic exercise within community.

2.4 Prohibition to enter into CF

According to Local Administration Act 1972, the Chief District Officer has authority to issue prohibition order for two months at once to stop/discourage violent activities²¹. CDOs are ordering lots of prohibition notice in many Community Forest areas by using this authority. But there is no clear provision in this law about the times of prohibition order. Therefore, on the basis of discretion, CDOs are giving order for 24 hours prohibitions for every days and it is being from very long time. Government has been arguing about the long time prohibition in forest areas because they suspect about hiding of Maoist in the forest areas.

Army also has been prohibiting Community Forest users to enter into the forest areas. Maoist also prohibits entering into the Community Forest areas to prevent the presence of government and security personnel. In this way, CFUGs are facing trouble from the prohibition imposed by government, security forces and Maoist insurgent as well to enter into forest.

Forest dependent people like firewood collectors (who collect firewood and sell in nearby market to feed their family) and animal grazers (users do not have plenty private land and go to forest for grazing and collect leaf litter regarding) are mostly affected by the prohibition notice issued from both government and Maoist²². Indigenous groups such as Raute, Bankaria, Chepang including different marginalized groups of people whose lives is depend on forest products like fruits, tubers, NTFPs and leaf litter are heavily affected. These ethnic groups and marginalized people are facing trouble for subsistence and they are requesting with government to provide permission for entering into their Community Forests that has been managed by them.

Most affected districts by government prohibition

District	VDC/ Ilaka	Time
Kanchanpur	Laljhadi forest, Dharapani and Badimalas forest(up to boarder or Dadeldhura) (Prohibited by Suryadai army camp)	19/11/2005 (24 hrs prohibited)
Banke	All forest areas under Kusum, Kohalpur and Baijapur Ilaka forest office.	2005 onwards (24 hours)
Dang	Forest areas of 19 Village Development Committee (VDC).	27/01/2006 (24 hrs)
Palpa	Forest areas of 18 VDCs	15/01/2006 (24 hrs)
Jumla	Chandannath,mahat, Kartikswami, Talium, depal and haku VDCs and forest areas of Jaljala and Nyauli hill areas.	27/01/2006
Bajura	Forest areas of 18 VDCs	04/01/2006
Bara	Five VDCs of northern belt namely Amlekhganj, Ratanpuri, Bharatganj, Sigul and Nijgadh	04/01/2006
Tanahu	All forest areas near by district headquarter Damauli	10/03/2006
Parbat	Chhamarke, Gupteshwor, Gajalte and Bhadkore CFUGs that are connected with district headquarter Kusma, 7 CFUGs of Chuwa VDC including sallaghari and laharepani Tarebhir CFUG-Durlung, Bause Bakhaldhunga Bajung, 8 CFUG of Tilhar VDC including Akohorepakha, 9 CFUGs of Pakuwa VDC	15/03/2006 (Withdraw the decision in 21/03/2006 after heavy protest and oppose of CFUGs and civil society.)
Gorkha	All forest area of Gorkha-Khairani road site	16/03/2006
Chitwan	Barandabhara CF area	July, 2005
Dhanusa	Maltol CF area	Jan., 2006
Dolakha/Ramechhap	All forest areas connected to the district headquarter	Jan., 2006
Salyan	All forest areas connected to the district headquarter	Dec., 2005

In this way, both conflicting parties are violating the provisions of article 14 of II Protocol of Geneva Convention 1949 by prohibiting local people to enter into their own Community Forest for the collection and fulfillment of basic forest products.

2.5 Control the timber of CFUGs by security forces

Security force publicize regularly that they found the evidence that Maoist are using Community Forest as a major source of income for people's war. So security forces order Chief District Office (CDO) to prohibit felling and selling of timber from Community Forest²³. CFUGs of Churia region and inner plain areas (Terai) of Dadelhdhura, Surkhet, Dang, Sindhuli, Makwanpur, Udaypur and Ilam districts are mostly affected due to the decision of prohibition to selling timber. These decisions are issued on the basis of the pressure created by security forces to CDOs and District Forest Officers. It is well clear that Maoist are collecting fund from both CFUGs and traders from the sale of timber. The logic of army is that it is unjustifiable to sell forest products to kill security force so security forces prohibited selling timber from CF since 2005 in various district including all eco-region²⁴.

2.6 Intervention from regional/zonal administrators

Zonal and regional Administrators are appointed by king after taking executive power and they are intervening in the CF and rights of CFUGs, which was developed and established from the last 25 years in Nepal. Far western development regional administrator issued a notice to prohibit selling the timber of CF by accusing CFUGs and contractor for paying certain money to Maoist²⁵. CFUGs say that it is

Prohibition notices issued by administrators

Districts	Date	Remarks
All district of FWDR	Prohibition of timber selling from 13/06/2005 until other statement.	Regional administrator decided and orders to implement to DFOs through district admin office.
All 6 district of Janakpur Zone	Prohibition of all activity for business purpose since 22/07/2005 due to security condition	Withdraw of such order in 03/01/2006 after massive protest of CFUGs.
Udaypur	Prohibition of cutting and sell of timber from CF since 20/04/2005	Withdraw of decision in such a condition that contractor have to pay 25% for the NGO of zonal administrator.
Rautahat	Prohibition order by DFO in Jan., 2006 to collect and sell timber from all CFUGs	DFO issues circular to CFUGs due to heavy pressure from zonal and regional administrator.
Ilam, Jhapa, Morang, Sunsari	Prohibition of timber sale from Community Forestry by Army since 2005.	Still continue
Makwanpur	Prohibition to timber selling from CF of eastern part of district since Dec. 2004	Still continue

arbitrary decision of prohibiting timber collection and sale from CF by accusing to Maoist for collection tax from contractors as well CFUGs.

CFUGs are ready not to sell timber not only for short time but also for several years if it solves the present armed conflict by not selling the timber. But, it is not possible to stop the conflict by prohibiting the collection and sales of timber from Community Forest. CFUGs believe that there is no justification and rationale of prohibition notice for timber sales issued by these appointed regional and zonal administrators.

2.7 Control the Bank Account of CFUGs

Nepalese Community Forestry program is not free from government attack and control since its conceptualization. DFO started stopping CFUGs bank account in so-called blame since 2000²⁶. Enforcement of state of emergency and prohibition after rapid growth of armed conflict made room for controlling CFUG's bank account to government administrators. The control of CFUG's bank account has been rapidly increased after the direct ruling of King from 2005 particularly by zonal and regional administrator. These administrators closed the CFUG's bank account in almost district of Terai and Inner Terai region including Salayan, Surkhet and Dadeldhura of Mid-hill. They intervening in bank account either directly or pressure through District Forest Officers. After heavy pressure, protest and oppose from CFUGs, administrators decided that the CFUGs can utilize their money collected in bank account only after the authorization given by administrators. In this way, the autonomy of the CFUG is completely terminated, although, CFUGs are struggling continuously to protect their financial autonomy.

2.8 Violation of environmental justice

Forest and forest product dependent groups like Raute and Chepangs are becoming the target of both conflicting parties for several years. Raute people came to their indigenous king and weep after killing their relatives by conflicting parties. But they didn't request any outsiders to help them. Simply, they never want to share their pain with others²⁷. The severe pain of widow, orphans and mothers who lost husbands and young sons cannot be compared with any other events. It is because their pain and torture won't be the priority of any parties. Their most urgent demand is 'not to use gun and explode bombs in our forest'²⁸.

Life style of Bankariya has been shifted from NTFP/herbs collector to agro-based labor after intervention from conflicting parties in the collection rights of forest products. It leads crisis over traditional identity of indigenous groups also²⁹. Bote, Majhi are totally displaced from the riverbank after making Maoist insurgent seeking place by security force. In this way, the armed conflict translated the life style and subsistence way of ethnic/indigenous groups into risk mostly³⁰.

All weapons that were as the belongings to local community have been confiscated by the government and Maoist. As a result, the number of wild boar, and other wildlife (Permitted for hunting) particularly in the outer periphery of National Parks/Wild life Reserves and gorge of Inner Terai regions have been increased. Local community cannot control them from feeding and destroying their crops³¹. It severely affects the livelihood of local community.

Most affected ethnic groups/Indigenous groups	
groups	Affected professions
Raute	<ul style="list-style-type: none"> Loss of monkey in jungle due to severe air borne and aerial bomb blast, as a result practice of killing monkey by Raute for livelihoods gradually decreased. Attack on indigenous right to make forest as shelter. Formation of box, bed, luggage etc by using timber has disturbed. It leads their profession into risk.
Bankariya	<ul style="list-style-type: none"> Emergence of barrier to collect forest tuber, roots, fruits etc. for the livelihood. Unable to go to forest for collection of basic forest product due to emergency declaration and prohibition notice.
Bote, Majhi	<ul style="list-style-type: none"> Unable to go fishing in rivers as announcement of prohibition to go forest along with stream, river, river bank. Army punished them in the name of Maoist at the time of finishing.
Chepang	<ul style="list-style-type: none"> Attack and punishment from security force when they dig to collect tubers, roots, rhizomes etc. blaming them as they are preparing trench for Maoist. Unable to collect agro products grown in shifting cultivated areas due to prohibition to enter into forest.

3. CONTROL OVER CF RIGHTS FROM MAOIST DURING ARMED CONFLICT

3.1 CF Control policy of United Revolutionary People's Council

Local level donation policy enforced by Maoist leads increment of negative perception among local people. Thus Maoist developed strategy to focus concern over local resources to collect money for the local level financial requirement. They thought and analyze political-economy of forest that control over sale of forest product to generate the required fund is the best option. Operational Directive for People's Government of Maoist provided rights to local people's government to fix and indicate control mechanism to collect fund from all potential sectors. United Revolutionary People's Council is developed their own autonomous Forest Directive for this purpose. These policies have been implementing in different district in different time as per the local context and situation.

Maoist implemented their autonomous forest policy in Far-Western Development Region since 2004. Maoist controlled all national and Community Forest after implementation of their forest policy. Maoist implemented their forest policy first time in Dadeldhura district in Nepal, which district is very suitable for timber business³². Similarly, Maoist implemented separate autonomous forest policy in Rapti zone. It is informed that collection of fund from Community Forest is under their autonomous policy. But local cadres of Maoist accept that they are also unknown about the Maoist written policy on forest sector for that zone.

CAUSE OF CF CONTROL BY MAOIST

- Negative impact of war tax to local individual compelled Maoist to choose CF as another alternative.
- Lack of money with rural feudal to pay Maoist; withdrawal of bank and financial institution from village and keeping bank and financial institutions money under security control.
- To justify the conflict is based on rural economic source and without outsiders' aid.
- Disconnect local people from governmental structure; enforce people to develop relationship with people's government and to convey the message of dual rule.

3.2 Obstacle in Autonomy of Community

Constitution and Operational Plan of CFUGs have been prepared and accepted under the Community Forest policy and laws of state. Thus it is usual that the CFUGs have compulsion to follow the state's policy and law. But district level United Revolutionary People's Councils are enforcing CFUGs to implement the following rules of Maoist:

- Registration of CFUGs in district committee of United Revolutionary People's Council,
- Change the name of CFUGs in the name of Maoist martyrs,
- Dissolves the former executive committee and formation of new one according to the Maoist direction,

RIGHT TO BE ORGANIZED

Maoist conducted various activities to intervene CFUGs rights of being organized. They forced to return back CFUGs representatives in Ropla from the ways that were going to attend the district assembly of their representative organization-FECOFUN. Similarly, district committee of Maoist publishes and enforces different forest regulation. CFUGs have rights to self-organize but Maoist is enforced to organize under their control. Such process discourages the autonomous right of CFUGs's to organize and unite.

- Approval should be taken from United Revolutionary People's Union for the forest product collection and sale,
- It should pay the fixed money to Maoist obtained from the sales of forest products,
- It should disconnect all relationship with the government agencies.

As per the Maoist Forest Directive, they take CF as the basis to establish people's ownership in forest. Despite, Maoist are intervening in the CF right through different burdens like building up of administrative relationship with the Maoist people's government which is a controlling process over Community Forest.

3.3 Interventions over financial resource of CFUGs

Maoist started to intervene and control the CF fund along with collection of donation from individual after the commencement of armed conflict. They started to control Community Forest area and their all activities along with the CFUGs fund after the formation of district committee of United Revolutionary People's Council as parallel government in 2001³³. In this process, district people's government of Maoist in Acham controlled over 210 CFUGs in 2003 for the first time³⁴. Maoist slowly geared up the control process of Community Forest in the country.

3.4 Forest Products: Basis of Maoist's Financial Source

There is the control over all natural resource of conservation area, community as well as national forest of high hill and mountain region from last few years by Maoist. They are using the invaluable NTFPs of these regions as a major source of financial resource. It is estimated that Maoist collected 450 Kg Yarshagumba (*Cordyceps Cynensis*) from Jumla district only in 2005³⁵. The only revenue of this

RATE OF WAR TAX IMPOSED BY MAOIST		
Districts	Rate of Tax	Remarks
All district in FWDR	10% for timer sale	Charging from contractor after timber sale
Rapti zone (all districts)	15-65% tax	Extra money from resin contractor
Shankhuwasabha	35% tax	Charged from CFUGs
Baglung	Yarshagumba (20,000/Kg)	Maoist purchase and sell themselves
Dolpa and Mugu	(100-50,000)/Person	Charging according to quantity of Yarshagumba and other NTFPs
Dolakha	5% - 50% tax	Charging from contractors
Ramechhap	15-50% tax	Charging from CFUGs
Kailali	40% tax	Charging from CFUGs
Terhathum	30% tax	Charging only of resin
Humla	Optimum 3 million in case of NTFP/herbs	In case of log Maoist charge Rs 50/ log that are to be sold in Tibet
Banke	20% tax	Charged from CFUGs
Bardia	40% tax	Collection through contractor
Udaypur	Rs 62/ C.ft. Rs 2500/tractor	Maoist collects more than 10 millions money annually
Morang	Rs 5 Millions for gravel, stone and sand	Collection from contractor
Chitwan	10% from total annual income from CFUGs	Revenue of timber collection through contractor
Ilam, Jhapa	10% tax	Collection through contractor
Sindhuli	As per timber species	Maoist collect equal money from contractor that they

quantity is nearly NR. 4.5 million. This event shows that all Himalaya people who are depended on Yarshagumba for their livelihood are continually affected.

Tax Collection Procedure of Maoist from Yarshagumba(*Cordyceps Cynensis*)

Forest entry fee- Rs 50/-per person or 2 pieces of Yarshagumba
After collection - Rs 500/- per person or 15 piece of Yarshagumba
Per Yarshagumba- minimum 60 to 400

3.5 Obstruction in Community Development

Maoist published the prohibition order for not to sale timber and other forest product collected according to Operational Plan and constitution of CFUGs in various districts. CFUGs should take consent from Maoist government for sale of timber and other forest products in most of the mid-hill districts of eastern Nepal. CFUGs in Dhankuta were unable to sell the previously collected Khair (*Acacia Catechu*) due to Maoist prohibition for a long time³⁶.

CFUGs were conducting various activities on health, education, drinking water, road construction, electricity, communication and income generation from the financial sources collected in CFUG fund by selling of forest products. These programs are mostly disturbed and collapsed after ban on sale and control over forest product by both conflicting parties. It creates serious problems in rural livelihood and accelerating the community development.

3.6 Violation of CITES during Conflict

Most of the infrastructure of forest administration has been collapsed and CFUGs alone can not protect the forest at the time of armed conflict. Many part of the country is lacking the presence of forest administration³⁷. Therefore forest smugglers have been collecting *Taxus Baccata subsp. Wallichiana* and Panchaunle (*Dactylorhiza hatagirea*) which are enlisted in CITES appendix. Maoist are also involved in collection and sale of these CITES enlisted species along with the IUCN red listed plants like Chiraito(*Swertia Chirayita*), Jatamansi(*Nardostachys grandiflora*), Pakhenved (*Bergenia ciliate*) into Tibet. The armed conflict in Nepal promotes carelessness of compliance of CITES also.

3.7 Involvement in Poaching

Public do not have weapons at present. Involvement of army in poaching for the purpose of sale would be difficult though they involve in killing wild animals sometimes in other purpose. In this context, it is usual to suspect over Maoist involvement in killing wild animals. Maoists were collecting 10% war tax form the sale of forest products in western region before 2005. But after the prohibition by administrator to selling of timber, they are unable to collect tax from CFUGs and the question arose that whether or not Maoist promotes poachers to kill wild animals these days. If the suspect is true, this condition would be more dangerous in coming days³⁸. So administrator should think over the ban of selling timber if this leads to the loss of wild lives.

3.8 control over Conservation Areas

Manasalu conservation area is fully under the control of Maoist since 2003³⁹. Similarly, Makalu-Barun Natinal Park, Dhorpatan Hunting Reserves are also out of the control of government in conservation perspectives. Because, these areas are also under the control of Maoist insurgent and presence of government security forces is mostly zero. Additionally, most part of the

Annapurna and Kanchanjhangha Conservation Area is also under the Maoist control, although, the area was claimed as the most successful participatory conservation areas in Nepal⁴⁰.

3.9 Collapsed Forest Adm. and Decreased Revenue

Two third of the physical and other structure of forest administration had been collapsed during armed conflict and other time until 2002⁴¹. According to the public information issued by forest administration, the forest in 58 districts was out of government control. Due to security situation, government closes to public the governmental loss during conflict and we cannot say exactly that how many district forest administrations have been conducting their programs. But as per the informal sources, nearly 85% structures of forest administrations have been already destroyed and collapsed. The decreasing amount of NTFP revenue to the government shows that government has been losing its control over forest day by day.

Decreasing Revenue of NTFP

<u>Fiscal year</u>	<u>Revenue</u>
2059/060	NR 3,82,29,911
2060/060	NR 2,94,17,340
2061/062	NR 2,30,57,420

3.10 Anomalies created by Maoist donation campaign

There is no any written policy and program to collect tax or fund form CFUGs in Maoist documents viz. Forest Management Directive under the Operational Directive or minimum common policy and program of Union Revolutionary people's Council. But Maoist's district level Union Revolutionary People's Council takes Community Forest as one of the important basis for collection of financial source. Such activities create different anomalies in Community Forestry development program⁴². Some of them are as follows:

- Maoist demand of donation is very high in comparison to the CFUGs real fund status. This lead to corruption among CFUGs in the name of fulfilling the demand of Maoist,
- Forest encroachers are getting political protection through donation and these encroachers affect CFUGs negatively,
- Responsible representatives of CFUGs are also involved in timber smuggling which leads to the destruction of CF and promote financial malpractices,
- Representatives of CFUGs withdraw money from the bank account of CFUGs and promote misuse and corruptions after prohibition of sale of timber and forest product.

Scarce of money in Bank

Sagarmatha zonal administrator threatened CFUGs to ban their bank account by blaming them that they are providing donation to Maoist from the sale of forest products. CFUGs were afraid and most of the CFUGs withdrawn their money from bank account in a single day. There appeared money deficit in the bank for regular banking activity also at that day.

4. INTERFERENCE ON CF RIGHTS FROM BOTH CONFLICTING PARTIES

4.1 Abduction, imprisonment and killing of Forest Activists

There are lots of examples that both Maoist and government are equally responsible to intervene over the rights of Community Forest in Nepal. Government has illegally controlled over the buildings of CFUGs and Maoists in the other hand have been involved in destroying the buildings and other assets of CFUGs in few areas. Similarly both conflicting parties are intentionally involved in arresting, abduction, keeping illegally in prison and even killing of forest activists. Government killed one facilitator of CF and arrested and keeping illegally in prison more than 13 forest activists very often. Similarly Maoist killed three and abducted other 11 forest activist in this period. Few of the abducted activists are escaped from charge where as the condition of others is still unknown. The intervention from both side over the right of Community Forest and its activists created severe negative impact on the right-based movement of community forest in Nepal.

4.2 Dead bodies from armed conflict in CF

Relatives have right to know the condition of their relatives even in any kind of armed conflict⁴³. According to the international humanitarian laws adopted by Geneva Convention 1949, it should be conducted appropriate cremating of death body of any persons and to be respect and access to the tomb for concerned relatives in the situation of any kinds of armed conflicts. But in Nepal, the notice board kept by Aiswarya CFUG in Kailali district proved that there are no any rules and respects of dead bodies that lost their life in armed conflict. It is proved by the statement - "**Throwing of dead bodies is strongly prohibited in this CF area**"-written in the notice board.

This notice board is sufficient to reflect the situation of most affected district Kailali and whole western part of the country⁴⁴. CFUGs were compelled to keep this notice board after facing the problem of throwing dead bodies of victims of armed conflict in river bank and CF areas. This notice board shows that the value of human life is as cheap and valueless even than insects in Nepal.

4.3 Obstruction in CF-based livelihood

It became clear that CF-based livelihood systems have been disturbed and hindered due to the activities of both Maoist and government⁴⁵. Article 1(2) of International Covenant on Economic, Social and Cultural Rights, 1966 clearly stated that all people may, for their own ends, freely dispose of their natural wealth and resources and in no case may a people be deprived of its own means of subsistence. Community Forest is serving as a resource and means of livelihood to most rural people in Nepal. That's why Community Forest is human right of the people in Nepalese context. Additionally, government also provided legal recognition to Community Forest as a means of livelihood to forest dependent people and it is thus legal right of forest users also.

The article 11(2) of the same covenant stressed that it is the state's responsibility to implement necessary activities and program to escape from hunger to each individuals. According to the provision stated in same article, government should implement the most effective development and utilization technique of natural resources to make each individual "free from hunger".

Various NTFPs and other forest products obtained from Community Forest are the prime alternative of hundreds of ethnic/indigenous, marginalized and deprived people to escape from hunger in Nepal. So that Community Forest is human right that helps to be free from hunger to poor people. Maoist should also respect the people's rights on Community Forest, because they are saying that the goal of the insurgency is also to escape from hunger to people.

4.4 stroke on Environment

Maoist and government both continually increase the firing on forest for the purpose of keeping the opposition in trouble for several years after the beginning of armed conflict in Nepal. This seriously affected forest, environment and bio-diversity. Small hydro-power projects have been destroyed and bio-gas plants service companies have been displaced from the village⁴⁶. There is not sufficient supply of kerosene even to lamp due to inflation, road blockade and political strike. The ultimate pressure of these problems goes to community and national forest, environment and on bio-diversity. According to the security strategy, clearance of forest in and around of the district headquarters also promotes Community Forestry destruction as most of the forest of nearby district headquarters which has been managed as Community Forest by User Groups.

4.5 Destruction of forest in the name of displaced people

Many people have been displaced to the low land (Terai) areas and nearby district headquarter for defense their live from increased armed conflict in mid-hills and Inner Terai regions. The displaced people have been using Community Forest in Terai as their shelter. The pressure of the displaced people increased in these Community Forests. But landlords, elites and timber smugglers have been intervening and encroaching the community and national forest and it is heavily increased in the name of displaced people⁴⁷.

4.6 massive smuggling of forest products

Because of armed conflict, CFUGs couldn't go to patrol in their Community Forest at present time. On the one hand, numerous forest activist are faced the abduction from Maoist and on the other hand they became the target of army even during the patrolling of community forest⁴⁸. In Community Forest, either prohibited by administrator to enter into forest or happens regular armed attack by conflicting parties each other. Forest encroacher are exporting forest products in India and Tibet by clearing the forest when there is long time absence of Maoist, army and/or forest users. It is also seen that the involvement of Maoist and army in the smuggling of forest products through contractors in some places.

Any of smugglers did not try to fell trees of Barandabhara forest nearby Chitwan National Park, one of the bio-diversity rich forests until it was under the care of CFUGs. But both Maoist and army restricted CFUGs to enter into this forest. CFUGs were unable to oppose the smugglers who cut 35 trucks of logs from the Baradabhara forest taking the benefit of restricting forest users to care the forest⁴⁹. CFUGs are confident that smugglers could not fell such a large amount of trees without protection of government, army and Maoist insurgent. Smuggling of timber/NTFPs and poaching have been rapidly increased due to state of emergency, prohibition and armed conflict. Massive logs from eastern hills primarily Ilam and Pachthar districts have been transported to the plywood factories in plain areas. There is no debate that these are taken after

massive forest destruction. Maoists have control over the forest areas of outside the district headquarters. There is no any effective plan with district committee of United Revolutionary People's Council to save the forest from destruction though they are taking forest as one of the major financial source⁵⁰.

Forest of canal bank in the low land (Terai) is facing severe destruction due to armed conflict although there is easy access of local community. Both government and Maoist neglect the forest of canal bank. Local community neither has weapons nor the environment to be organized to save the forest of canal bank. Forest encroachers felled all the trees and took it out by taking advantage of unstable political situation⁵¹. CFUGs have been facing severe problems from both conflicting parties. Army and armed police attacked unnecessarily to the Community Forest and destroyed trees and bio-diversity on the one hand and Maoist are also ordering to fell lots of trees beyond the carrying capacity of forest to collect tax from the income of CFUGs. These both exercises ultimately promote to destruction the Community Forest. Forest encroachers underestimate the capacity of CFUGs during the armed conflict and there are sufficient examples of forest encroachment by them in the assistance and involvement of conflicting parties as per local situation. The armed conflict in Nepal has been helping to encourage forest encroachment and destruction oriented activities.

4.7 Flee of Forestry Project

Various projects working on Community Forestry development in Nepal have continually been terminating their support because of armed conflict and royal move in Feb 1, 2005. Denmark, Germany and European Union (EU) stopped their project last year. These countries were supporting to Community Forest program for a long time. As a result amount of foreign aid in the sector of Community Forest has been decreasing by 47% after the termination of support from international donor communities⁵². Because these donors were supporting Community Forest development program to develop the forest-based enterprise and to generate the income of poor families in rural areas. Churia Forestry Development Project (ChFDP) had been assisting right-based movement of Community Forest in low land (Terai) and Churia region and government blamed to the project that it is loyal and positive with the Maoist agitation⁵³. Maoist disturbed Natural Resource Management Sector Assistance Program (NARMSAP) - the Danish funded project to launch community forest program - by blaming as the agent of government employees against Maoist. Other projects have repeatedly expressing that they are compelled to terminate the support, as there was no environment to work in the welfare of community due to the armed conflict. Goals of these forestry projects are not achieved because of severe conflicts⁵⁴. Forestry projects are also engaged in the analysis of the conflict in their working sites and spending time and money to develop strategy to conflict-sensitive NRM response during conflict as most other project does⁵⁵.

In this way, the armed conflicts make room for termination of various forestry projects from Nepal. Nepalese people are in the stage of loosing right of getting grant and development in return of providing environmental services to the developed countries.

4.8 Collapse of CBFE

Community-Based Forest Enterprises (CBFE) have been facing serious impact of armed conflict from both Maoist and government. Nepali handmade paper industries are in the stage of collapse

because government restricted to enter forest to collect raw materials and prohibition of taking raw materials and other physical goods that are most require for the paper production at local level⁵⁶. These actions prove that the government is against with their own policy of promotion of CBEF. Similarly, Maoist insurgents have been demanding high donation as war tax with CBEF and destroyed the enterprises if ignores to pay donation. This also crates serious problems over CBEF⁵⁷. There seems vast difference between the policy and practice of government and Maoist towards CBEF. Though Maoists policy is taking cooperatives as basic foundation of forest product distribution system; they are attacking over NTFP/herbs-based Cooperatives.

4.9 Damaged of Hydropower stations

The impact of armed conflict is not only limited to forest resource management system. It also affects hydropower, drinking water, irrigation and fisheries related activities. Maoist destroyed some of small and medium hydropower stations during armed conflict. One study of upto 2003 shows that Maoist destroyed 12 small and other medium and large hydropowers like Modi, Jhimruk, Adhikhola, and Khimti⁵⁸. The destruction process is not stopped yet. Puwakhola hydropower of Ilam has been damaged by Maoist during attack in Ilam headquarter is the latest instance. Study reports shows that Maoists destroyed most of the hydropower because of not closing during political strike and not provided sufficient donation to Maoist. Rural people are compelled to depend on firewood for light after collapse of most of the rural micro-hydro projects. These kinds of activities ultimately increase forest depletion.

4.10 Obstruction over Alternative Energy

Various NGOs and small-scale companies had been providing technical services for the development of rural level alternative energies to develop rural community in low economic investment and easy way. After the provoke of armed conflict, Maoist claimed relatively large amount of donation from them in one hand and the government obstructed to transport the required materials for services. As a result, most of these organizations and companies have been displaced from these rural areas. Due to lack of regular services, the old dung-based gas plants became functionless and formations of new plants are also stopped⁵⁹. Local people again depend on the forest products to cook food, after obstruction over alternative energy sources. The consequences of pressure over forest definitely loss the forest and greenery.

4.11 Control over Ponds and Lakes

Local self-governments deserve legal rights to provide pond and lake out of forest area in contract for fisheries business. Local government used to collect attractive amount of money from such contract. But after the emergence of armed conflict in Nepal, most of the ponds and lakes are under the control of Maoist insurgent. Maoist has been selling fishes from the ponds of Banke and Bardia districts after control over these resources. Formerly, respective District Development Committee provided these ponds and lake in contract⁶⁰. Maoists have been generating large amount of money from these sources annually. Similarly, Maoist has been collecting sufficient money from contractors after control of ponds and lakes of Eastern Terai region. The purpose of control over such resources by Maoist is to collect necessary fund to buy arms rather than the support to livelihood of local people through proper management of these sources.

4.12 Obstruction on Drinking Water Systems

Armed conflict also affected rural drinking water system. Maoist did not allow local government and different project to implement drinking water services. Maoist allowed implementing drinking water programs through local community but security forces obstructed to implement. Security forces did not allow transporting the water pipes and other construction materials from district headquarters to the construction spot⁶¹. It is because a security force believes that these pipes are used to prepare bomb from Maoist insurgent. So though the government administration allows transporting the necessary materials for water projects, security forces do not agree to do so. As a result, most of the rural drinking water supply systems have been disturbed.

Maoist also cut drinking water pipe to Dailekh and Surkhet district headquarters several time in the name of disturbing the water supply to the security forces. They damaged the intake and cut water pipes to stop the water supply to army base camp in Chainpur of Shankhuwasabha district. As a result, the water supply was completely disturbed for half a year⁶². Additionally Maoist disturbed the regular water supply in Myanglung, headquarter of Terhathum district in the name of political strike to displace the people from headquarter. The result of the water supply disturbances created serious psychological impact on almost all resident of headquarter.

Protocol II Additional to the Geneva Convention of 1949 and relating to the Protection of Victims of Internal Armed Conflicts, 1977 prohibited to attack, destroy, remove or render useless objects in warfare to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works. But both government and Maoist in Nepal seriously disturbed and controlled over small hydropower, fish keeping, irrigation, drinking water supply and basic forest product collection against the provision of convention. It leads the life of public into hard and uncomfortable condition. But government has yet to be ratified I and II Protocol of Geneva Conventions. Now, both parties have been violating human right and humanitarian laws despite both are committed to follow the provisions of Geneva Conventions. Therefore, both conflicting parties need to follow and respect human right and international humanitarian laws.

4.13 Positive effects of Armed Conflict

Although, most behave of conflicting parties are against the favor of people and local community, few positive activities during the armed conflict have been observed. Some of them are as follows:

4.13.1 Role of Maoist in Community Forest Management

Maoist did not keep clear vision about Community Forest until announcement of minimum common policy and program by Union Revolutionary People's Council. Maoist authorized the Community Forest program in the Forest Directive of Union Revolutionary People's Council as a basis for establishment of people's right over forest resource. Because, they are realizing the scenario of CF right that it was completely became inseparable part of Nepalese people.

(A) Production to Production

Ilam District committee of Maoist tried to implement the production to production program for the purpose of forest protection in Ilam. It is seen that strategy of Maoist is to conduct both

protection and development program simultaneously. Maoist implied strategy of heavy punishment to those who actively involved in tree girdling and other irregularities under this program. In this way, government officials also accepted that Maoist have contributed in protection of forest in some districts⁶³.

Relativistic Exercise of Forest Management

Although Maoist authorized Community Forest program through their Forest Directive, there is lack of uniformity in its implementation. Maoist policy on forest management in Ilam is production to production whereas they developed their own organizational structure for implementation of cooperative production forest. Maoist published that all national forest in Chitwan has been handed over as Community Forest to the local community where as they published that all the forest in Jumla will be managed under their own control. We can see that Maoist have applied the concept of cooperative forest for the protection of bio-diversity and forest of Jaljala area before several years in Rolpa, the birthplace of Maoist insurgent. In this way, it is seen that Maoist strategy of forest management is based on relativism as per the field-specific condition.

(B) Joint Campaign and Support in Forest Governance

Maoist has been conducting campaign of public punishment to national and community forest encroachers from time to time. Maoist succeeded to return back the embezzled fund of CFUGs after punishing to corrupted members in Nawalparasi district. Destruction of national forest decreased after punishing the encroachers by Maoists in Rautahat district. Maoist, CFUGs and government officials conducted joing-patrolling campaign in Udaypur district to protect national and community forest and it was familiar to most people in the sector of conflict management. In this way, several campaign of Maoist for the protection of community forest became milestone for the protection of forest.

4.13.2 Transformation of social Power Structure

Armed conflict has been seen somehow helpful to terminate exploitation from feudal class family in community forest program and to transform the power structure. Because, CFUGs have been conducting public audit of the fund, forestry pogrom for the poor family, good governance within CFUGs and gender mainstreaming programs, which support to address the armed conflict and transform the social power structure. As a result, the movement of CF program begins to challenge feudal system and exploitation-based socio-economic and political structure.

4.13.3 Role of security force in community forest

During the consultation and discussion with CFUGs and FECOFUN representatives, we found that the security force capture the community forest, collect forest products forcefully and free of cost in most places. It is also found that such activities of security forces increase users' dissatisfaction over their activities, although few security forces supported to CFUGs in forest encroachment control campaign in some places. Security force assisted CFUGs to find out the forest product hiding places taken from community forest in eastern and Mid-Terai region.

5. POSITION OF COMMUNITY FORESTRY PROGRAM IN PEACE PROCESS

5.1 Community Forestry and Peace Process

Federation of Community Forestry Users, Nepal (FECOFUN) district chapters have been conducting several talk programs with Maoist and government in local as well as district level in the issue of people's right over forest resources. It is clear from various studies that the district chapters' representatives of FECOFUN have ample experiences about the condition of local level talk program even during conflicting situation. As the scope of the study is to analyze and reflect the impact of armed conflict over community forestry, such learning is not included in this study paper.

But we can clearly state that the learning of FECOFUN district representatives are important in the process of peace talk and conflict management. Political parties, government and Maoists never included community forest program as their agenda during government and Maoist peace talk or in the process of conflict management. But we can see that political parties and government have been providing recommendation against community forest program in their studies during peace talk and conflict management. It is clear that such activities definitely weaken community forestry development program in Nepal.

5.2 Governmental Recommendation

Dhami Working Group:

The government formed Maoist activities and solution seeking working group in 1997. This group did not address any words in the context of community forestry program. Silence of government and political parties over community forest program proves that they are either unknown or intentionally neglect about Community Forestry program. The working group took local community as supportive unit of government in plantation only. It is one

Maoist Insurgency Solution Working Groups

Dhami Working group-1997

Short-term alternatives (Economic Aspects)

- Implementation of economic upliftment programs in Maoist affected areas,
- Management of local resources and establishment of cottage industries.

Short-term alternatives (Administrative)

- Establishment of wildlife reserves in Maoist affected forest (Rolpa, Jajarkot and Rukum) areas and transferring protection right to army,
- Involvement of local people in plantation.

Maoist problem Resolution High Level Recommendation Committee 2000 - Deuba Committee:

- Immediate commencement of poor oriented economic and administrative measures,
- To develop the provision for control and participation of local people in development programs.

Government's concept on progressive improvement in states system-2004:

- Development of effective local self governance system of participation and access over governance system,
- Theoretically acceptance with the Maoist issue about socio-economic context.

evident that government always behaves to local people as labor of forest administration. Despite this working group recommended conducting income generation programs in Maoist affected areas for which establishment of NTFP/herb-based cottage industries. But it was worthless recommendation because establishment of such industries was not possible without establishment of people's right over forest resources, resolving enterprise promotion related problems and infrastructure development.

Some recommendations of Dhimi working groups cannot be even imagine by local community. Because, the working group recommended declaring all forest of Rukum, Ropla and Jajarkot (Districts under control of Maoist) as a Wildlife Reserve and control through army. It is autocratic recommendation itself because the participation of army in the protection of forest and bio-diversity is worldwide rejected. The livelihood of Nepalese traditional/ethnic group and marginalized community is entirely based on forest product, bio-diversity and grazing. In this situation, it is clear that government is unknown as unfamiliar about the local people's right and livelihood system otherwise there won't be such recommendation of protecting forest through security personnel.

Deuba Committee: The government formed Maoist problem resolution high-level recommendation committee in 2000 under the coordination of former Prime Minister Mr. Sher Bahadur Deupa. The report of this committee did not address about community forest program. Deuba committee recommended to immediate commencement of poor oriented socio-economic measures and to develop provision for control and participation of local people in the development process only as an ideology. In this way, this committee is also silent about the problems faced and struggle conducted by CFUGs to save from the impact of armed conflict.

Progressive Concept of Government: Government disclosed "states vision on progressive improvement" in 2004 during the process of peace talk with Maoist. This vision also did not address any perspectives of community forest program. Though the concept is clear about development of effective self-governing system to promote participation and access on the governance system, we cannot assume that this statement address community forest program. The concept agreed theoretically over Maoists questions of socio-economic perspectives. But the rationale of the recommendation completely terminated after the collapse of 2nd peace talk. Community forest program has been continually becoming the subject matter of neglect from the government side despite this program has been acting as milestone in peace process and conflict management at local level.

5.3 Recommendation of Political Parties

We can see that political parties have been conducting brief study in different time about peace talk and conflict management. These studies lacked to address the interrelationship between natural resource and livelihood, although these studies analyzed Maoist agitation as the political phenomena. Communist Party of Nepal - United Marxist and Leninist (CPN-UML) formed Maoist activity study working group under the coordination of parliament member - Chandra Prakash Mainali in 1997. The working group recommended government to implement economic upliftment programs like income generation activities, poverty alleviation and employment generation on the basis of people centered development concept in rural areas.

Similarly, another committee formed under the coordination of parliament member Jhala Nath Khanal recommended implementing special programs for the development of remote and under developed areas⁶⁴. Although such recommendations were not directly connected with forest right, they were assisting such right indirectly. Nepali Congress though not studied about Maoist insurgency in the initiation of party, it studied about the armed conflict from governmental side, because it was ruling party in most time after promulgation of multi-party democracy. Similarly, Rastriya Prajatantra -National Democratic- Party (RPP) also studied about the conflict resolution when it was a ruling party. Other parties did not conduct any study about resolution of armed conflict.

5.4 Role of Nepal Bar Association

Government used to arrest and keep in prison illegally to representatives of Federation of Community Forestry Users, Nepal (FECOFUN) either in the name of Maoist or accusing participation in the pro-democratic agitation. Human right committee of Nepal Bar Association has continually been helping such forest activist to escape from illegal prison. This proves that Nepal Bar Association has been becoming very serious about the right of community forest and enthusiasm increased to the CFUGs due to Association's support.

5.5 Role of FECOFUN for Peace Talks at Local Level

The umbrella organization of Nepalese CFUGs has also been affected by the current insurgent and armed conflict. FECOFUN has been facing Maoist challenges as it is registered in District Administration Office, Kathmandu under the Organization Registration Act 1977 in one hand and facing governmental challenge due to FECOFUN's strategy to advocate for the establishment of community right over forest resources on the other. Although, behave from both side to the FECOFUN district chapters is not similar from district to district. Government attacked the procession organized by FECOFUN's Saptari and Siraha district chapters for the purpose of reestablishment of forest right whereas did not do anything in the procession of Dang, Salayan and Banke districts. Maoist tried to prohibit FECOFUN's district chapter of Terhathum to conduct any activities of community forest for one year assuming federation as an NGO through public notice where as they published notice to help FECOFUN's district chapter of Chitwan if they conduct campaign for the establishment of forest right.

The discussion and consultation were conducted with representatives of 25 district chapters of FECOFUN in eastern and central development region proved that they have been conducting regular issue-based dialogue with both Maoist and government to secure the rights of community forest. As per local context and situation, district chapters of FECOFUN have requesting through several dialogues with districts level representatives of United Revolutionary People's Council for not to intervene on the rights of community forest⁶⁵. We founded that district chapters of FECOFUN have conducted several dialogues with district committee of United Revolutionary People's Council to stop the donation policy and to support for FECOFUN to struggle against those who are engaged to destroy and misuse of CF fund and forest products.

Maoist published time-to-time that they have been endorsed the working guidelines issued by 10 different donors⁶⁶ about the working procedure during armed conflict. United Revolutionary People's Council made public notice to allow for conducting social work by I/NGO. But Maoist

has continually prevented I/NGOs to conduct development activities in local level. Several district chapters of FECOFUN have been facing problems from Maoist to facilitate right-based movement of community forest because Maoist behaves with FECOFUN as an NGO. CFUGs have been requesting with Maoist to rethink about their former policy and decision of not allowing conducting the activities of community forest in grassroots level after the endorsement of understanding between Maoist and 7 political parties.

5.6 Role of FECOFUN in National Context

The Maoist insurgent started to affect community forest program after its commencement of armed struggle slowly. Affected CFUGs conducted different protest program to save the rights of community forest from armed conflict by their own individual efforts at local context formerly. It is primarily because only 11th meeting of national executive committee of FECOFUN formally decided in 2005 to make solidarity for pro-democracy agitation to protect the rights of community forest.⁶⁷ The committee meeting decided there is need of peace and democracy for the establishment of right of community over forest resource for which the federation expressed solidarity over the agitation conducted by 7 political parties and civil society. Public media published the decision of federation as praiseful and encouraging.⁶⁸ Though, FECOFUN decided formally afterward, national executive committee and all district chapters raised voice to against the intervention over the rights of community forest by both conflicting parties. Some important efforts of FECOFUN are as follows:

1. FECOFUN national executive committee has requested with government and Ministry of Defense in 2000 to stop intervention over community forest, to stop establishment of army camp and troops in CF areas and not to make CF area as army exercise areas. Ministry of Defense then corresponded to Royal Nepal Military Office in 2001 to provide advice about reducing army exercise areas of CF.
2. We found that FECOFUN frequently requested Maoist not to confiscate the fund of CFUGs, not to killing and abduct to forest activist and obstruct the rights-based community forest activities⁶⁹. It is seen that Maoist reduced intervention over the right-based activities and activist of community forest by realizing the FECOFUN's request to some extent.

5.7 Solidarity of FECOFUN to Democratic Agitation

It is well established that successful practice of right-based community forest cannot be established without democratic environment at local level. But CFUGs are becoming powerless to exercise democratic practice at local level due to armed conflict between government and Maoist; as a result, contribution of community forestry program to local and nation level has been continually becoming insignificant. Additionally, after King's takeover in Feb 1, 2005, completely terminated the remaining power of community to democratic exercise at local level. This created severe condition in CFUGs. In this condition, there was no any other alternative of agitation to save forest right of CFUGs. In the context of commencement of democratic agitation by political parties and civil societies; CFUGs and district chapters of FECOFUN were forcing to national executive committee to decide for solidarity in the democratic agitation continually. Therefore, national executive committee of FECOFUN decided for solidarity over democratic agitation of political parties and civil societies and take initiation to protect the forest right of CFUGs.

FECOFUN has been participating in the democratic agitation through its organizational structures and CFUGs after the decision of expressing solidarity in the agitation. FECOFUN has continually been requesting both conflicting parties not to intervene over the rights of CFUGs. Similarly, FECOFUN has been conducting orientation to representatives of civil societies and leaders of political parties on right-based approach of community forest and facilitating them to express their commitment to protect the rights of CFUGs after restoration of democracy and formation of democratic government.

5.8 Role of District Chapters of FECOFUN

The district chapters of FECOFUN are the most important and basic foundations for the implementation of different types of campaigns of community forestry at district and local level. These district chapters are not only leading to organize various campaign or right-based movements of community forest, but they are also capable in leading for democratic movement organized by civil societies and political parties at district level.

District chapters of FECOFUN have conducted various dialogues with the district committees of United Revolutionary People's Council (Maoist) in the process of right-based campaign of community forest. They also conducted several dialogues/discussions with governmental administration and security force as per need and created pressure to secure the rights of CFUGs. These district chapters got success in most cases despite some weakness, difficulties and challenges faced by them. They have succeeded in many districts to persuade Maoists not to collect money from CFUGs. Similarly, they also got success to persuade and create pressure over security forces and governmental administrators to stop intervention and control over community forest area and fund of CFUGs as well as collect of forest products without compensations.

5.9 Lack of Conceptual Clarity

It is clear that FECOFUN contributed a lot to increase momentum of CFUGs rights over natural resources in Nepal. Though the community forest has been functioning as basic substance of rural livelihood; but there is no published any clear perception about the position of CF/CFUGs in the situation of armed conflict, which is one of the major weakness. Despite, FECOFUN has been regularly expressing the view that both conflicting parties should respect to CF/CFUGs as the peace zone, although there is lacks of any written statements. Dialogues or correspondence to armed conflicting parties and national/international human right organizations along with the cause of treating CF/CFUGs as the peace zone is yet to be done.

Community Forest is not only the source of public utility but also the foundation of escaping from hunger. Thus, the provisions of II Protocol of Geneva Convention should be followed by all parties, which is prohibited to attack, destroy, remove or render unless objects in warfare to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works. It is also stated that starvation of civilians as a method of warfare is prohibited. We realized that FECOFUN still lacks to raise voice about it. It seems that there is lack of enough discussion and clear understanding within FECOFUN about how to treat CF/CFUGs in the time of armed conflict.

5.10 Conclusion

Most of the analysts agree with the view that Maoist insurgent emerged due to geographical inconsistency, socio-economic and political discrimination, poverty and inequality in Nepalese society. But these factors are still deteriorating because the Maoist problems are not resolved within time. The armed conflict seriously affected over the right of local community who are natural resource managers, which leads them frustration over not only community forest, but also other community-based natural resources management systems. Therefore, CFUGs are slowly unwilling to contribute for the management of natural resources as usual because of severe Maoist control in one hand and intervention from security forces and governmental administrations in their community forest area, forest products and community fund from time to time. The CFUGs of all eco-regions started to discontinue for the management of community forest for the last 8 years⁷⁰.

Intervention from both government and Maoist insurgent over timber, Non-Timber Forest Product, medicinal and aromatic plants of community forest has been increasing continuously. Therefore, contractors have also been unwilling to buy such forest products from CF. Apart from CFUGs and forest administration, contractors have to satisfy conflicting parties also. It is additional burden and pressure over those contractors who want to buy and sell such forest products from community forest. Various local level services sectors of basic needs like education, health, drinking water, electrification, communication, tourism, roads construction programs have been seriously affected after decreasing the income of CFUGs; as CFUGs have been spending huge amount of money in those sectors of basic needs. Such interventions of conflicting parties over the resources of CFUGs, they are compelled to discontinue the income generation activities or programs for poor and marginalized groups and completely stopped the community development activities which stated above.

It is clear that there are several negative impacts/effects over the natural resources management systems from armed conflict in Nepal. But keeping always-negative perception over it cannot solve the problems. So that, it is require to be serious over the basic causes of conflict. Right-based movement of Community Forestry program can also contribute in conflict management and assist in peace building process, if we analyze the interrelationship between the conflict and community forestry program. Moreover, the conflict motivating factors that can be addressed through the right-based community forestry program should be carefully addressed.

It is explicitly proved that the local community can manage the natural resource in sustainable way by themselves and there is no need of state control as the external power. Any communities which have the autonomy and democratic power, they can make room for sustainable development, equitable society and alleviation of poverty at community level. Therefore, these aspects are essential to consider as important perspectives during the process of peace building, conflict management and formulation of new constitution for new and democratic Nepal.

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