

DIALOGUES TO PROMOTE WATER RIGHTS UNDER NATIONAL WATER PLAN (NWP) WITHIN DECENTRALIZED SYSTEM OF NEPAL



FINAL REPORT

Nepal Water Partnership/JVS
Kathmandu, Nepal

July 2007

Background:

The people and the Government of Nepal alike have pinned their hopes on the country's water resources for long as a means of long-term development and national wealth creation. Such optimism has been officially reflected in the national Water Resources Strategy (WRS), which mentions its water sector goal as *'living conditions of Nepali people are significantly improved in a sustainable manner'*. The Government has adopted WRS in January 2002 and it has also prepared and adopted a National Water Plan (NWP), which basically contains various sets of action plans that need to be implemented in short-term (2002-2007), medium-term (2007-2017) and long-term (2017-2027) strategy/plan periods to meet the strategic objectives and achieve outputs within those periods.

Nepal is considered to have abundant water resources with an average annual availability of 225 billion cubic metres of water in the form of rain and snow that precipitate in country's 147,181 square kilometres of area. However, there are great temporal as well as spatial variations in the availability and accessibility of water due to monsoon nature of the climate and also due to rugged topography. With this, the end users of the natural resource are bound to be in water stress, a situation innately giving rise to conflicts and a host of water rights issues. The water rights issues, which were limited to irrigation use, and domestic water use to some extent, in the past are in the increase these days as more competing users in hydropower, recreation, environment conservation, industries, etc., are claiming their rights on the resource apart from the traditional claimants.

Gaps Identified in the GWP Survey:

Allocating water equitably and managing it in the best interest of users and the State has always been a challenge in Nepal as in other parts of the world. WRS and NWP have adopted Integrated Water Resources Management (IWRM) principles to meet the challenge. As we look into the principles further, we will find that IWRM needs elaborate legal instruments and effective institutional mechanism for its implementation. NWP has generally identified gaps and put forward its recommendations for bridging those gaps. Global Water Partnership in its Second Informal Survey Report on the Status of the 2005 World Summit on Sustainable Development Targets on the National IWRM and Water Efficiency Plans, February 2006 has also presented the status of IWRM and identified gaps in its implementation in Nepal among several other countries. The present study has further diagnosed specific gaps and recommended measures so that strong legal regime could be established to ensure water rights of the end users in the decentralized political and administrative systems of Nepal for the effective implementation of NWP with a minimum possibility of conflict over the resource.

Present report is the outcome of the dialogue, which involved various experts and the stakeholders at various levels such as sub-basin, basin ad central in the field for a period of four months (April through July, 2007) with interactions among stakeholders at various levels.

Objectives:

The main objective of the **interaction**/dialogue programmes is thus to initiate a dialogue with the concerned stakeholders in National, Regional and Local levels to bridge the gaps as identified in the recently concluded second informal IWRM survey by the Global Water Partnership (GWP) Network on national integrated water resources management and water efficiency plans in February 2006. And it is also planned to disseminate different policies of the water resources sector to wider groups of stakeholders in the context of IWRM.

Methodology:

The methodology adopted to conduct the study and dialogue process was as follows:

Three basic areas in which the study on the water rights issues are to be focussed were first identified. They are:

- Data and information management system for the water resources
- IWRM and its principles and their status of implementation, particularly in the context of Nepal
- Existing institutional mechanism and legal regime in water sector

The experts in the concerned fields reviewed all available literatures related to above three areas and prepared structured discussion papers. The contents of papers were for both making the stakeholders aware of the up to date information in the fields and setting stages for the effective dialogue. As for instance, it was considered necessary to disseminate information on the country's meteorological and hydrological data management, gaps and limitations in the management information system itself including data acquisition and processing, etc. among the stakeholders before initiating any dialogue on the rights on the resource. The Study Team thought that it would have been futile to discuss on the water rights issues without the stakeholders knowing how effectively the resources they claim their rights on could be quantitatively monitored, hence, the discussion paper- "Data Management in the Context of National Water Plan and Its Decentralized Systems".

Likewise, another paper- "IWRM Principles and Water Rights" was for disseminating information on the IWRM and showing connectivity between its tools and water rights for the management principles' objective to attain optimum benefits in a relatively conflict free regime. The third paper- "National Water Plan and the Legal Regime on Water Resources" discussed existing water related legal instruments and institutional mechanism and that proposed in the perspective water plan. The paper has also highlighted the emerging issues in the sector that demand regulatory framework and legal instruments to resolve them.

The discussion papers described above were then presented before the stakeholders at three levels- district level, basin level and national/central level.

In Nepal, 75 districts have been recognized as the units for political devolution and administrative decentralization. Water Resources Act, 1992 has authorized the District Water Resources Committee, chaired by the concerned Chief District Officer, to issue licenses for water resources in most of the uses and to resolve disputes at the district level. Thus Chitwan, a district with a lot of water use complexities was selected and the dialogue was conducted on 10 April 2007 (2064/1/27 BS) at Bharatpur, the district headquarters with participation of representatives from government agencies, irrigators, NGOs, CBOs, private entrepreneurs, etc.

In the upper level, Gandaki Basin, one of the three major basins of Nepal, was selected and the dialogue was conducted in Pokhara on 4 May 2007 (2064/2/21 BS). Apart from the participants mentioned above, regional level agencies were also invited in the dialogue at the basin level.

Finally, at the central level in Kathmandu, a similar dialogue was conducted on 12 July 2007 (2064/3/28) with participation of central level agency representatives. The three dialogue programmes were organized by Jalshrot Vikas Sanstha/Nepal Water Partnership jointly with District Water Resources Committee, Chitwan; Western Regional Irrigation Directorate; and Water and Energy Commission Secretariat, in Bharatpur, Pokhara and Kathmandu, respectively.

The present report has been prepared by compiling the outcomes of the above stated three dialogue events.

Scope and limitation:

As stated in the Methodology above, the scope and limitation of present dialogue programme is preparing three working papers and presenting them among the stakeholders at district, basin and central level to seek feedback from them on required institutional set up laws ensuring water rights in the process of implementing National Water Plan and its underlying IWRM principles.

Highlights of Discussion Papers :

Data Management in the context of National Water Plan and Its Decentralized Systems

The paper is divided into 14 sections. The first introductory section begins with a brief description of major basins of Nepal and recognizes that temporal and spatial variations in the precipitation due to about 80% of annual rainfall occurring during monsoon season (June through September) and irregular terrain pose a major challenge in the management of water in Nepal.

The next or the second section on National Water Plan appreciates the perspective plan's IWRM approach of managing each basin holistically for which the institutional arrangement with river basin offices (RBOs) proposed in the plan is congruent with that already adopted by the Department of Hydrology and Meteorology (DHM). The paper in its subsequent section highlights the necessity of data and information for the effective implementation of IWRM. The paper states that the IWRM principles cannot be applied unless there is a system of continuous assessment and monitoring of water as a resource.

Administrative or political boundaries, if not matched with the hydrological ones, generally complicate the processes of allocation and management of resources in decentralized development. The paper has recognized this complicity and endeavoured to analyse the situation in Nepal in the fourth section on Decentralization. Fortunately, it has been found that watersheds have been used as district boundaries in majority of the districts. The paper has perspicuously looked into the administrative boundaries of each of the 75 districts as to how far these match with the watersheds, i.e., basin boundaries.

Recording, compilation, analysis and transfer of data for the availability of users are different stages in the hydrological and meteorological data management system. The paper discusses this aspect in its fifth section on Potential Decentralized System. DHM has recognized the need of field offices in between the major basin offices, which are currently in the three major basins and the recording stations for the effective dissemination of data and information among the users. At present, there exist 15 meteorological field offices and one hydrological field office in operation. The paper emphasizes that more such offices need to be established. In the subsequent section on Water Related Information System, the paper reiterates the recommendations of NWP for establishment of adequate hydro-meteorological stations so that their densities meet international standards. Such adequate density is necessary for the establishment of effective decision support system, a prerequisite of effective IWRM.

In the following section on Hydrological Information, the paper provides a brief account of the distribution of hydrological and precipitation stations in different basins of Nepal. The paper also states that recording and publication of hydro-meteorological data was initiated in Nepal in the mid 1960s. In the subsequent, i.e., eighth section on Hydrological Database Management, the paper summarizes the events of hydrological activities and database management in chronological order. This section also provides an account of

chronological development of logistics for the computation and information management, according to which the latest one is the web based Meta Data System available with the DHM that was introduced in 1905.

The next section, i.e., ninth section on **Proposed** Database Management describes how data is managed from recording to dissemination. The paper in this section mentions that precipitation and discharge records are transferred from lower to higher tiers of system both using post and wireless communication and GIS based relational database system is maintained

The 10th section (Institutional Arrangement) describes about the institutional arrangement of hydrological and meteorological data management. The paper stresses on bringing groundwater hydrology also under DHM activity as both surface and groundwater are the two subsystems of the same hydrological system. It feels a need to include more professional hydrologists in the organisation and suggests that more field offices need to be established and made operational. The paper has also included a detailed organogram in its 11th section.

Under the heading of Human Resources in the subsequent section, the paper gives an account of different types of professional staff working in DHM. One noteworthy feature of the human resources of DHM is that it has 237 permanent staff and more than three times this number (i.e., more than 700) are part time daily wage earners earning a meagre sum of Rs. 20 to Rs. 45 per day. (US\$ 1=Rs. 65, approximately). The paper in a section on Water-Use Database has emphasized the preparation of water-use inventories in all the basins. The Water and Energy Commission Secretariat had prepared such inventories a couple of decades ago for most of the districts. However, these inventories mainly consist of lists of mostly the irrigation systems and drinking water systems only and their updating is long overdue.

The paper is concluded with the following suggestions regarding hydro-meteorological data management:

- Institutional arrangement should be implemented as suggested by NWP and groundwater hydrology should be dealt with in conjunction with its surface counterpart by merging the two related institutions into one.
- Since modernization of data management system with real-time access to data facilitates the effective allocation of water resources, the efforts needs to be geared towards that. Such modernization is essential for both effective water utilization and mitigating water-induced disasters.
- Database management system needs to be linked with the research and test of appropriate technologies on regular basis, as this is a field of growing concern and global interest.

The detailed paper is presented in Annex AI

The IWRM Principles and Water Rights

This paper is divided into 5 sections. The first section on Water Resources and Principles of IWRM begins by highlighting the facts that water has economic, cultural and environmental values and therefore, is in growing demand. Globally, it has been seen that as the society undergoes various stages of development, water gets increased recognition as an economic goods and national as well as international rules of the game in the forms of principles, policies and laws have to be formulated in order to regulate the competing uses of the unevenly distributed natural resource. IWRM, as a tool and process to regulate such competing uses for the optimum benefit, is evolving with global appreciation and reached to its culmination -the Dublin declaration, 1992.

The subsequent section of the paper enumerates the guiding principles of IWRM. The term 'guiding' indicates a sense of caution that the prescribed principles need to be adjusted according to the local, regional and national settings with pragmatic approach for the effective results. Among these principles, the four Dublin principles are the principal ones- i) water is a finite and vulnerable resource; ii) water management and development should involve participation of stakeholders; iii) women has a central role to play in the development and management of water; and iv) water has an economic value, hence economic goods. Besides these, the paper has also enumerated a host of elaborated doctrines that are supplementary to the main guiding principles. These include principles of integration of different sectors, basin-wide management, etc. The paper, in this section, also stresses the need of involvement of local communities and authorities and accepts that the underlying principles are compatible to the poverty reduction initiatives of UN Millennium Development Goals.

The third section of the paper is on State of Water Governance in Nepal, which states that water sector rarely posed a legal problem and irrigation and drinking water problems, if cropped up somewhere, were resolved with customary and traditional practices in the past. A separate Water Resources Act, 1992 first came into being and is still prevailing. The paper has highlighted the underlying principles of the act of which the principal ones are- State has the ownership of water; which is not transferable but the right to use is conferred by way of licensing while no license is required for individual and collective use of water within the community; promotion of decentralization; provision of royalty and fees against the use of resource; prioritisation of use among different sub sectors; etc.

The fourth section of the paper describes the Application of IWRM Principles into Practice. The paper cautions that growing water scarcity is posing significant challenges, especially in the efforts to alleviate poverty. The problem of water scarcity with the increased economic use is now and will further be compounded by the demands from groups that advocate for maintenance of ecosystem and accordingly, more efforts will be needed to strike a balance among the competing users. The paper recognizes that IWRM is not a simple proposition and therefore, it may not be possible to achieve its goals at

national and basin levels simultaneously. For the realization of IWRM, the process needs to undergo different stages- firstly, creation of an IWRM environment with public awareness, political will, legal base, conditions for all concerned parties' participation and capacity building; secondly, action plan with set priorities based on IWRM principles; and thirdly, creation of conditions for the implementation of action plan with political support and committed financing. In Nepal, the action plan in the form of NWP has been prepared, but institutional mechanism and legal regime are yet to be set so as to make them compatible to IWRM principles. Likewise, political will and financial commitment are yet to be ascertained.

The fifth and last section of the paper is on the System of Water Rights. In the beginning of this section, the author has enumerated the basic requirements of a water rights system, which are universally evolved and accepted. These are- user should not let water run to waste and make its effective and beneficial use; there should be reasonable security of water use tenure including entitlement of compensation in certain cases; and there should be flexibility to reallocate water to more beneficial social, economic and ecological uses through periodic review or other mechanism. The paper also strongly advocates a philosophy that ownership of water lies with the State. The paper endorses that Water Resources Act, 1992 has all of the basic requirements of a water rights system. At least the act does not contradict the requirements, however, the paper agrees that the Act needs amendment with introduction of more provisions to ensure water rights of the users for the integrated water resources management. These provisions will be for:

- fostering the participation of water users;
- implementing demand management programs;
- ensuring water availability for new water resources development;
- systematic realization of water charges to promote water use efficiency as well as for the operation and system maintenance;
- potential trading of water rights to promote more efficient water allocation; and
- developing conjunctive use of surface and groundwater resources

The detailed paper is presented in Annex A2

National Water Plan and the Legal Regime on Water Resources

This paper has analysed the existing water related legal regime and institutional set up and attempts to propose improvement in line with that suggested by NWP to meet the requirements of IWRM.

The introductory section of the paper gives a glimpse of water resources of Nepal and highlights some of the problems seen in the effective utilization of the natural resource. This section also describes the context in which WRS and NWP were prepared to address these problems and recognizes that these documents have rightly adopted IWRM

principles to address the problem of conflict of interest that rises not only from the competing uses of water but also from the overlapping of jurisdictions of institutions.

The paper throws a word of caution that absence of a comprehensive policy in water sector and incoherent roles and responsibilities of a number of institutions with varied interests, scope of work and rights and duties may put the development of water sector in peril. As various agencies responsible in the development of respective sub sector have their own separate mandates and also the legal provisions, they may not work and are not working in consonance, the resultant effects being sub optimal utilization of water on one hand and rise of conflict on the other. This very reason necessitates the formulation and harmonization of rights and obligations of the concerned agencies for the attainment of goals of WRS/NWP. In addition to the recommendation of NWP for WECS to have a mandate of techno-economic clearance of irrigation, hydropower, water supply and river training projects of certain sizes and above, the paper recommends that such provision is necessary in case of industrial and other uses too, because the latter sub sectors are likely to consume a great amount of scarce water resources in years to come. As NWP has proposed establishment of some new institutions such as river basin offices, Himalayan Climate Change Study & Research Centre, Hydropower Research centre, regulatory agencies in water supply, groundwater and power and restructuring of Nepal Electricity Authority, it is necessary to define their roles and responsibilities and interrelationship very neatly. Similar requirements hold good in case of local bodies like DDCs, VDCs/municipalities as well for they are also actively involved in water related activities.

The paper also provides a comparative table depicting the existing institutions responsible for data management, planning, licensing, regulation, conservation in relation to water and the legal regime together with that suggested by NWP. In addition, the paper has identified areas where further reformative changes are required. Apart from this, the paper has enlisted prevailing Acts and Rules, which has direct or indirect bearing with water. The paper has also identified various needs while preparing ground for the new legal regime in water sector. They are:

- Enactment of new law and regulation;
- Elimination of inconsistencies in legislation be it in the same instrument or between one another;
- Rectification of lacunae in the existing laws; and
- Harmonization of laws relating to water and other related laws.

The paper stresses that the responsibility given to WECS by NWP needs to be elaborated and legalized with appropriate instruments. It also mentions about the regulatory bodies, which NWP has proposed with no particular opinion for or against the propositions. However, the paper is somewhat critical about slow progress of power sector reform.

The author of the paper has suggested that a comprehensive water law would be needed with following main instruments:

Parliamentary Acts and Rules:

1. Water Resources Act and Rules for specific uses.
2. Hydropower management Act and Rules.
3. Acquisition Compensation and Resettlement Act. and Rules

Apart from the above, manuals and directives specifically for groundwater, irrigation and drinking water, mining, pollution, water quality control, sewage treatment, etc. have also been proposed. Likewise, other Acts related to water resources such as environment, aquatic life, soil and watershed conversion, local self governance, etc. need to be looked at and harmonized in a way that they don't contradict to the main goal of water conservation and development.

The paper has also presented 14 different essential features that the proposed comprehensive water resources law would include. They are ownership on water resources, rights to use, licensing, priority, water service charges, conflict resolution, law related to WECS, river basin offices, regulatory agencies and local level institutions, power of the government for development of water resource, water quality control, penalties, and miscellaneous.

The detailed paper is presented in Annex A3

Outcomes of the Dialogue :

District Level Dialogue

As mentioned above, the district level dialogue on water rights was organised at Bharatpur, Chitwan on 10 April 2007 (2064/1/27 BS). Representatives attended the dialogue programme were from government agencies, irrigators, NGOs, CBOs, private entrepreneurs, etc. The list of the participants is in **Annex B1**

The dialogue programme was jointly organized by District Water Resources Committee, Chitwan with the latter's active participation. The programme was chaired by the Chief District Officer Mr. Netra Bahadur Rawal.

In the beginning of the programme, Mr. Surya Nath Upadhyaya, General Secretary of JVS and also the Leader of the study team delivered a welcome speech and highlighted the issues that would be discussed for next several hours. At the outset, he made it clear that the entire ongoing process was to assist the Government in its efforts to implement NWP effectively with proper legal regime and institutional set up. He further mentioned that the ongoing research activity was being conducted independently with no felt pressure from any quarters.

Mr. Upadhyaya specifically elaborated the rationale behind inclusion of hydro-meteorological aspect in the present study. He said that rights could not be claimed over imaginary quantity of water. Legal provisions to safeguard water rights without a scientific system of water measurement and monitoring would have no use.

Mr. Upadhyaya further mentioned that there remained little or no debate on empowering local bodies in the management of water resources at local level; however, some agency would be necessary to coordinate allocation. Thus with the formulation and adoption of WRS and NWP, Nepal has already accepted the principles of IWRM and it is now the time to debate on the mechanism including preparation and adjustment of institutional and legal framework to implement the principles.

Following the welcome speech and introductory remarks, the two papers- "Data Management in the context of National Water Plan and Its Decentralized Systems" and "National Water Plan and the Legal Regime on Water Resources" by Hydrologist Dr. Keshav Prasad Sharma and Water Law Expert Mr. Surya Nath Upadhyaya respectively were presented and the floor was open for discussion. The discussion was moderated by Mr. S. N. Poudel, Vice President of Jalshrot Vikas Sanstha. Mr. K. D. Adikari assisted in the entire dialogue process.

As the detailed papers have been annexed to this report and their highlights have been presented above, it is not considered worthwhile to repeat them again in this section. The summary of the responses from the stakeholder participants is presented in the following section.

Responses

While initiating the dialogue, Mr. S. N. Poudel highlighted the importance of freshwater. He said that Nepal was experiencing water stress even when it has abundance of the natural resource. He attributed such dismal condition to poor water management. He also cited a statistical fact that 70% of freshwater is consumed in irrigation. Hence, it is necessary to save water with efficient irrigation management and the saved resource should be reallocated to other uses. According to him, prevailing Water Resource Act, 1992 is not ambiguous, however, many of its provisions are yet to be tested in the field.

Mr. Babu Ram Bhandari, District Forest Officer, Chitwan demanded that there should be adequate water for wildlife, too. He said that the rhinoceroses of Chitwan National Park had to travel far in search of water and they fell prey to predators.

Mr. Guna Raj Pathak, an eminent citizen of the district pointed out that the existing water related laws are incomplete. He also expressed his remarks with a felt need of coordination. He emphasized the necessity of establishing national water rights prior to that done within the country. For that, he suggested that surface water sources should be given preference to groundwater.

Mr. Hari Prasad Neupane stated that water projects with improper investigation had short lives, a serious threat in sustainability. He suggested utilizing local technology and experience to enhance water projects. He emphasized the necessity of formulation of legal instruments and plans with local level participation. He expressed his apprehension about the growing pollution of freshwater bodies.

Mr. Krishna Bhurtel suggested that water, forest and land should be viewed together while formulating water related laws and plans. His apprehension about water pollution is mainly due to industries in Nawalparasi district polluting the Narayani River.

Mr. Nava Raj Shrestha from local agency for groundwater irrigation expressed his opinion- that there is duplication of institutions doing the same job; that there should be one umbrella Act for water and the sub sector Acts/Rules should be under the umbrella Act; that State's investment is wasted because of irrigated land being used for other purposes; and that documents like NWP were prepared emotionally and such emotions die out by the time they are implemented.

One Woman Participant brought out the issue of leakage and wastage of drinking water. As women work for 18 hours a day, a major part of which in fetching water, small works that conserve water save a great fraction of their time, thus improving quality of their life.

A participant from Madi valley (Southern Chitwan) said that there were cases of wild animals attacking people while going to fetch water.

The representative from Communist Party of Nepal (United Marxist Leninist) suggested that it was more important to utilize the outcome of the dialogue than organizing dialogue programmes themselves. He also stated that conflicting laws were more problematic than not having any law.

Mr. Purna Bahadur Ranabhat from Narani Lift Irrigation System appreciated the dialogue with stakeholders in the changed context.

Mr. Hikmat Bahadur Gurung representing Rural Water Supply and Sanitary Programme, DFID suggested that there should be provision of registering users' organisations even in the concerned VDC, because it is a difficult task for some of the senior citizens to travel to district headquarters.

Mr. Bel Bahadur Gurung cited a case of Sagun Tole, a resettlement where people from Padampur have been relocated. He said that as there was sudden rise in the demand of drinking water because of resettlement, the diversion of water had caused the existing users of the source river face new kinds of water shortage problems in the downstream. He suggested including the issue of Padampur-Sagun Tole as a case study while drafting provisions of laws for water rights. He felt that it was becoming difficult to collect irrigation service fees in absence of appropriate stringent laws. On account of this, irrigation systems are suffering. He also suggested including water users' representatives in the District Water Resources Committee. His further suggestions were to have legal provision to assess interference of tube wells and other environmental impacts while allowing construction of a new groundwater system or well and to check anthropogenic watershed degrading activities.

Mr. Netra Bahadur Rawal, Chief District Officer and Chairman of District Water Resources Committee while speaking from the chair appreciated the dialogue process. He stated that it was appropriate to collect suggestions from the local level and build consensus in the process of drafting laws to ensure water rights.

At the end of the dialogue programme at Bharatpur, Mr. S. N. Poudel delivered the vote of thanks and the programme concluded.

Basin Level Dialogue

The basin level dialogue on water rights was organised in Pokhara, a centre of the Gandaki basin on 4 May 2007 (2064/2/21 BS). Representatives from government agencies, irrigators, NGOs, CBOs, private entrepreneurs, local media, etc., attended the dialogue programme. The programme was chaired by Mr. Pradip Raj Poudel, Chief District Officer of Mustang district, whereas the Chief Guest was Mr. Medini Prasad Sharma, the Regional Administrator of the Western Development Region. The Western Regional Irrigation Directorate, Pokhara, together with JVS was the co-host of the dialogue programme. The list of the participants is in **Annex B2**

After welcoming the participants, Mr. S. N. Upadhyaya briefed the audience how the dialogue on water rights is being proceeded by JVS, a national partner of the Global

Water Partnership. He also explained the rationale of the three papers that would be presented discussed in the coming hours. He said that the first paper on hydro-meteorology would be for disseminating information on the nature and quantity of the resource and how the related data were being managed. He mentioned that data and information on water would be the starting point of users to implement any water related development works. Likewise, the second paper on IWRM principles in conjunction with water rights would be for disseminating information on theoretical aspects of the IWRM and their practical bearing in relation to the water rights, especially at local levels. Mr. Upadhyaya also gave a brief introduction of his own paper on NWP and the legal regime.

Then the authors presented the three papers. Following the presentation, discussions on them proceeded. Mr. S. N. Poudel, Vice President of JVS moderated the discussion with assistance of Mr. K. D. Adhikari. The responses obtained were as follows:

Responses

Mr. Medini Sharma, Regional Administrator and the Chief Guest pointed out that time and cost overrun of water projects were because of inadequate participation at the local level in projects' preparatory stage leading to several kinds of disputes.

Ms. Saraswoti Shrestha, working in the community water supply works through NEWA, a NGO, shared her experience informing the audience that disputes on sources of water are too common in drinking water projects. IWRM principles with proper water rights provisions in the concerned law books would be handy to resolve such disputes. She further suggested that there should be a provision of mandatory membership of local water user groups in the Federation of Water User Association. Regarding women's participation in water users' organisations, provision of certain percentage of female members alone has not ensured their real participation. There should be a way out to ensure their physical representation and meaningful participation.

Mr. Rabindra Bastola suggested that water fees and royalty should be based on the volume of water use. He highlighted a ground reality that most of the disputes on water rights were on the ungauged small rivers.

Mr. Krishna Kant Sigdel from Western Regional Irrigation Directorate suggested that DWRCs, which have great responsibilities allocating water at the district level should work in conjunction with DHM and its basin and field offices. He also suggested to use the ongoing dispute between irrigators and privately sector hydropower generation company in Andhikhola, Syangja as a case study for preparing water related laws.

One participant complained that IEEs and EIAs had become mere rituals. There have been no downstream release in the Lower Marsyangdi Hydroelectric Project. He was also critical about the present institutional set up of Department of Irrigation. He said that irrigation division offices are not located at proper places.

Soil & Watershed Conservation Officer from Myagdi district suggested that conservation of watersheds should be given high/national priority.

Mr. Mukunda Sharma, a practicing lawyer suggested that review and study of the court cases on water rights could be a useful basis for future effective water laws. He further suggested that there should be effective provisions and mechanism to penalize the polluters of water bodies.

Farmers from Vijayapur and Begnas Irrigation Systems said that poor collection rates of irrigation service fees were because of failure of agency to supply reliable irrigation water. They suggested to delineate the actual irrigation area from the reported one and collect fees accordingly. They also suggested making a provision of mandatory clearance stating no service fee dues from WUAs for selling/buying of irrigated lands.

Central Level Dialogue

The central level dialogue on water rights was organised in Kathmandu on 12 May 2007 (2064/3/28 BS). Representatives from government agencies, NGOs, CBOs, private entrepreneurs, local media, etc., attended the dialogue programme. The programme was chaired by Mr. R. K. Tiwari, Secretary, Water and Energy Commission Secretariat, Government of Nepal, whereas the Chief Guest was Honourable Minister of State for Water Resources Mr. Gyanendra Bahadur Karki. The Water and Energy Commission Secretariat, together with JVS was the co-host of the dialogue programme. The list of the participants is in **Annex B3**

After welcoming the participants, Mr. S. N. Poudel, Vice President of JVS briefed the audience how the dialogue on water rights is being proceeded by JVS, a national partner of the Global Water Partnership. He introduced the three authors of the papers and also gave a brief outline of the forthcoming presentations. Prior to that he spoke for a moment about the Global Water Partnership and JVS also. Then the authors presented the three papers. Following the presentation, discussions on them proceeded. Mr. S. N. Poudel, Vice President of JVS moderated the discussion with assistance of Mr. K. D. Adhikari. The responses obtained were as follows:

Responses

Dr. Kishore Babu Aryal, Former Secretary, Ministry of Water Resource, appreciated the WECS-JVS combination in jointly organising the dialogue programme at the central level. He enquired whether it would be necessary to review the entire process in lieu of the impending federal structure towards which the country is lurching.

Mr. Shital Babu Regmi, Joint Secretary, WECS suggested that his organisation would need teeth (legal rights) to perform as a regulatory agency and to fulfil the tasks that NWP expected it to do.

Dr. Dibya Ratna Kansakar, an expert in groundwater in the Department of Irrigation said that there should be clear delineation between the rights and responsibilities at central level and at local level.

Dr. U. N. Parajuli, Joint Secretary, WECS suggested that a single umbrella Water Resources Act should cover all sub sectors of water sector.

Mr. Shyam Banet from 'Hamro Sampda' magazine was critical about government's failure in implementing various long and short-term plans. He grossly blamed bureaucracy for such failure.

Mr. Udaya Raj Sapkota, Senior Law Officer at the Ministry of Water Resources was of the opinion that Nepal's water related laws are not that deficient even when they are compare with those of developed countries.

Mr. Govinda Das Shrestha, a professional lawyer said that enabling tools were as important as the Water Resources Act. He said that most of the anomalies were because of the prevailing conflicting Water Resources Act and Local Self Governance Act. He was of the opinion that legal instruments and institutions should be introduced together harmoniously. He also suggested that, if at all the country adopted a federal structure, it should be basin-wide.

Dr. Dhruva Raj Pant of IWIMI was critical about the Study Team for too much focussing in legal issues. He said that as water allocation took place at local level, accessibility of database at that level was important. He suggested that principles that have been effectively implemented at local level should be codified.

Dr. Upendra Gautam said that Water Resources Strategy and National Water Plan would need another strategy for implementation. Educating stakeholders is one of the important aspects of such strategy. If the Government is desirous to implement the perspective plan, it should convince the stakeholders.

Mr. Matrika Bhattarai suggested for a provision in law to take care of groundwater recharging.

Mr. Jitendra Subedi of NEC informed the audience that water rights issue is being raised forcefully in the Melamchi Project. He suggested for a linkage between water related government agencies and academia.

Mr. B. K., Pradhan, Former Secretary, Ministry of Water Resource, expressed his happiness to learn about the dialogue process. He suggested a pilot IWRM project would be needed. The experts need to convince the Government for speedy implementation of NWP.