

## **Conflict Resolution in Local Governance Provisions in Local Self-Government Act 1998**

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### **Introduction**

Conflict is an inevitable and pervasive aspect of human life. It is characterized by the complexity of modern social, economic and political environment. It occurs between two individuals, groups, organizations, communities and nations and even two regions in the form of disagreement, grievances, problems and tensions. Many scholars believe that conflict is the last phase of the trouble beginning with problem and passing through dispute. Problems are usually simple and can be solved with a little effort because they do not have incompatible goals. They are solved with proper management. Disputes do have incompatible goals but are achieved through bargaining and negotiation. Disputes are usually settled through a mutually agreed formula often involving compromise between the disputing parties. When the problem reaches the stage of conflict, the situation becomes really serious. Due to the presence of a mutually incompatible goal, the resolutions of conflict virtually becomes impossible and even in the case of possibility, almost all the human skills involving thinking, feeling and behavior including communication need to be applied. Conflict lies everywhere and in every situation where human action found to be interacting. If the conflicts are not resolved at an early stage, societies will have to go through situations that are harmful to their development.

Resolving conflict is, another prime concern of the present-day social, economic and political complexity. It is the human nature to let loose problems and ignore until they really pose threat to a positive development. The problems, disputes or conflicts, whatever they may be, are not identified and resolved at the very initial stage. As a result they become mature and more complex. A normal course of conflict turns violent if no action is taken to transform or manage it through a natural course of action. In the context of the current trends of democratization, decentralization and devolution of power and authority, Nepal is witnessing all kind of conflicts at every level of governance. The existence of these conflicts and the failure of political machines to address them in time have created more gaps in the society, which ultimately has hindered the political development of the country. Democracy is threatened by these failures. Even the problems related with Maoist activities are the manifestation of these failures.

The term conflict resolution has come into frequent use in connection with the local governance. The local government institutions and the people living at this level face varieties of conflicts in their day to day affairs. The identification, classification and resolution of these conflicts are very important at this stage if political development along with other kind of development is to take place. After the restoration of multiparty democracy, the local bodies are being seen as the cradle of democracy. The quality of democracy and the growth of democratic leadership emanate from these levels. Their role in furthering democratic ideals and strengthening democratic procedures is expected to be effective for which they should be prepared to deal with all kinds of difficulties that may

come in their way. Among many others, the basic and fundamental functions of these local institutions are to resolve the local conflicts at the local level. This will help the local citizens to be free from tensions of going to the courts of law and other government offices to resolve minor disputes that may come in their day to day life.

### **Historical Background**

The existence of alternative forums for conflict resolution is found as far back as the *Kirat* period. During this period, the country was divided into several districts known as *Thums* headed by a governor whose main task was to maintain law and order and settle disputes in his jurisdiction. Besides the governor, the *Thums* also had panchayats with five members, presumably elected by the people. Their functions were subsidiary to the governors, which means they were only advisers. Below the *Thums*, there were villages and each village elected a *Subba* and a *Upa Subba* to look after the affairs of the villagers.<sup>1</sup> Besides collecting tax, these village headmen and deputy-headmen were responsible for the settlement of local disputes. They were expected to be fair and just while settling the disputes even by their religious community and they would face a curse to fall upon them if they willfully neglected their roles.<sup>2</sup>

During the Lichchhavi period, the local administrative units were divided as *Dranga*, *Tala* and *Gram*. Not much is known about them, but most probably, they were the three tiers of the local administration as of today's village development committees (VDCs) and district development committees (DDCs). *Panchali* at the grassroots seems to have been very popular because of its frequent use in the historical inscriptions. *Panchalies*, usually, decided upon the cases involving the local people and settled their disputes. They also provided services to the people within their territory.<sup>3</sup> Only if the *Panchalies* were unable to decide upon the cases or settle disputes, the cases were taken to the government offices and ultimately to the inner court of the kings. Gram Panchalies were authorized to look after the five heinous crimes known as *Panchaparadh* which were theft, robbery, murder, adultery and divorce.<sup>4</sup>

During the entire Malla period, the kings were the source of power. They did not much believe in decentralization but at the same time they had to respect the tradition of history. Malla kings gave continuation to panchalies as panchayats. The panchayats were well respected and given considerable importance by the people. The local disputes were always taken to the panchayat before they reached to the king's court. In fact, the panchayats were asked to serve as mediators even in matters which, concerned only the royal family, especially if it was related with property distribution.<sup>5</sup> The panchayats were not officially empowered to settle local disputes but worked because people trusted them. They were socially recognized to help people in settling their disputes.

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<sup>1</sup> Tulsi Narayan Shrestha, *Nepalese Administration: A Historical Perspective*, Kathmandu: Rhino Publication, 1989, p. 24

<sup>2</sup> *Ibid.*

<sup>3</sup> Dhanabazra Bazracharya, *Lichchhavikalka Abhilekh*, Kathmandu:CNAS, 1974, p.331

<sup>4</sup> *Ibid.*, p. 152

<sup>5</sup> Dhundiraj Sastri,(ed.) *Nepalko Itihaska Panch Swarnim Pristha*, Kathmandu:Royal Nepali Academy, 2039, p. 54.

After the unification of Nepal, the central administration let the defeated principalities run their administration on their own under the supervision of the area military commander. The Rais and Limbus of the east settled all their disputes within their communities often mediated by their headmen. The head priest, who was popularly known as Gumbe Lama or the Lama who was in charge of the local monastery, helped the Tamangs to settle their disputes. Similarly, the other local tribes depended on their community leaders for this matter because the newly emerged state was engrossed in the expansion of its territory. The local people also did not trust the new lords wholeheartedly in the resolution of their problems. Thus, the local conflicts in this period were resolved within the community without much interference from the central government.

During the Rana period, Nepal was politically stable and free from outside interference. Ranas could concentrate on the governance of the state but their attitudes towards the people remained hostile. They did not want participation of the people in matters of governing except in the payment of taxes. Government officials like Katuwal, Dware (messenger), Mukhiya, Majumdar, Patawaris (intermediary-tax collectors) etc. had reached down to the lowest level, if not the regular officials, appointed by the Ranas. However, at this time, conflicts that arose in the villages were settled by the officials in a coercive way, except in some cases that belonged to the Tribal communities. The Ranas did not dare to intervene in the affairs of Tribal communities.

After the introduction of democracy in 1950, the democratic structures and democratic local leadership did not replace the village structures and local officials. Feudalism under the Rana officials persisted and democracy could never become a part of the thoughts of the village people. In fact, ten years of democracy had no impact in the life and thoughts of the local people. That is why when democracy was abandoned in 1960, the new system was readily accepted by the people at the grassroots.

The introduction of panchayat system in 1960 and the promulgation of constitution in 1962 gave the local institutions to the Nepali villages that were in their culture and that had ceased to function effectively for about two hundred years. Panchayat system claimed to be an indigenous system and suitable to the Nepali soil, but its function was not grounded on the people's trust. It could not foster the spirit of human dignity, national pride and individual freedom. It could not resolve the problems that came in the villages and in people's daily life. Rather the so called elected officials of the panchayat became the constant source of socioeconomic and political conflict. It could not end feudalism and work for the poor people. Whatever goods and services reached the villages, helped only one section of the society and the rest were exploited. Thirty years of monocratic panchayat system could have done a lot to bring about equality and social justice because the center could impose and order the people as it wished. The national conflict of the Maoist problem is not the product of the multiparty system. It is the product of the historical inequality and injustice, which were not addressed by any political regimes of the past.

The panchayat system could not deliver although it had its own mechanism of governance. The local government institutions of that time were given ample responsibilities and authorities. On the matter of resolving conflict in the village, the Village Panchayat Act 2018 (with amendment), 2021 and 2035 had empowered the local institutions with some judicial powers to look after and decide upon the cases related with:

- a. Public land,
- b. Boundary,
- c. Wages,
- d. Trespassing,
- e. Sources of water,
- f. Pasture land and the collection of grass and firewood,
- g. Killing of female animals except a cow; and
- h. Cheating in weighing and measurements etc.

Village panchayats were given equal authorities as of district courts on the above matters and anybody not satisfied with the decision given by the village panchayat could go to the village assembly which acted like an appellate court of a regular judicial system. The methods changed several times giving the power of appellate court to the district panchayat or to the district court itself, which did not matter much as long as the village panchayat wielded judicial authorities. But the judicial authorities alone were not sufficient in resolving all conflicts. The social and political problems of the society were not addressed by the system. The political problems were suppressed by the center instead of solving them at the local level through discussion, debate or dialogue. There was no mechanism of expressing difficulties by the unprivileged people. As a result, conflict between the different classes of people increased so much that in the long run the panchayat system itself had to be replaced.

### **Major Areas of Conflict at the Local Level**

The mass movement of 1990 took place in order to end the socioeconomic and political conflicts that had long existed in the society. People joined the call of political parties to fight against the older regime that could not change their life in thirty years. They hoped that democracy would bring comfort and convenience and would help them to live with dignity. But it did not work that way. The new system could not handle the new situation. Political leadership had no experience to run the state machinery and, above all, they could not keep up with the spirit of the mass movement. They put themselves before the people - individual leaders before the party and the party before the people. As a consequence, the political system suffers a legitimacy crisis. This has not been derived from people's mistrust of democracy, but rather as a result of the new system's inability to live up to the high expectation set in the aftermath of the 1990 mass movement.<sup>6</sup> As a result, new conflicts have emerged everywhere. This situation remains from the center to the very grassroots. There is thus the need for a massive change in the attitude of

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<sup>6</sup> Mathias Kruger, *People's power: The process of decentralization in Nepal*, Sweden: Uppsala University, 1995, p. 43

everybody, whether an ordinary citizen or a politician or the intellectuals and professional if these conflicts are to be resolved in the Nepalese society.

There are altogether three thousand nine hundred and fourteen VDCs and fifty-eight municipalities in Nepal. Almost all the VDCs that were capable of being towns or had a little bit of infrastructure have become municipalities and the others are still villages, without the basic infrastructures like drinking water and electricity. Richer people from the villages have migrated to the town areas. The differences between urban and rural life have increased the gaps between the affluent classes and the poor. The rural people are suffering from maldevelopment in every field and the difference between urban and rural life has been one of the major instruments in creating more conflicts in the society.

The local leaderships belong to the feudal classes in every village and community even after the restoration of democracy. The advent of democracy has not changed the situation. The local leaders, belonging to the feudal class, are thus the promoters of conflict in the villages because their interest lies in maintaining the status quo and creating more gaps between the rich and the poor. They are not motivated by the spirit of democracy and their advocacy for liberalism and democracy is only to protect their own interest of remaining leaders of their areas. Their role in protecting their own interest has given rise to ethnic conflicts and exploitation of the weaker sections of the society such as women, children, unemployed youths and migrant workers. Thus, the conflicts at the local level are many and can be very serious if they are not managed in time.

*Political conflicts:* Politically, people were never divided in the villages in Nepal as they are today. During the panchayat period, divisions prevailed only at the national level. Villagers did not think much about the political parties and political ideologies. Today, the villages are divided according to the political beliefs. The divisions between the ruling party and the opposition are very strong even in the local government institutions and whatever one party does the other opposes. People consider division as an inevitable part of democracy. The political parties have failed to socialize people in a healthy democratic way. They have been misinformed about democracy and the democratic ways of governance. The culture of harmonization, which was the character of Nepali society, is losing its ground. Politics has created differences between brothers and sisters, fathers and sons, neighbors and even between husbands and wives. Democracy has not been able to consolidate the human values and beliefs. As a result, more conflicts at the political level are emerging, especially at the grassroots.

*b. Social Conflicts:* Socially, villages tend to have conflicts and are engrossed in the traditional social taboos that often breed conflicts. Living in small communities, the people cannot transcend the limits of social norms. There are problems related with caste, gender, ethnicity, poverty, religion and language even at the local level, problems, which have divided the society. These problems need to be analyzed separately since they are so much dominant in the Nepalese society and their role in creating social conflicts is vital.

- (i) *Caste:* The caste concepts are the major source of conflicts in the villages. The castes initially were created and groomed to maintain social order, to

distribute work for all and make everybody work according to his/her ability. But in the long run, the caste system became perverted and brought up untouchability. In spite of the guarantees provided by the constitution and *Muluki Ain* regarding the equality of all castes and creeds, social discrimination against untouchables continue. Political openness and pluralism have encouraged the people belonging to that group to raise their voice against the social injustices and political discrimination. But it is deeply rooted in the Nepali society and cannot be eradicated overnight. Special efforts are needed from the state to dismantle this age-old tradition.

- (ii) *Gender:* Women constitute more than 51 percent of the total population of the country. The state as well as the international organizations have recognized their role in the total production of the country. They are not inferior to men in any way except in physical strength and yet they have not received an equal status in many things. Now, the women's forums and NGOs dealing with the women's interests have been able to push the government in passing women's property rights and constituting the women's commission. But mere laws and commissions will hardly be of any value unless they are put into practice. Women cannot empower and develop themselves so long as men do not want to share power with them on an equal footing.
- (iii) *Ethnicity:* Nepal is a multiethnic country. The ethnic and caste groups, numbering up to 60, constitute about 20 percent of the population. The issues and problems of ethnicity had taken a back seat in the past. They were identified either with the Hindu caste structure or with the Buddhist social stratification. But after the restoration of the multiparty system in 1990, people belonging to the ethnic groups have started speaking more openly and have even refused to belong to any of the majority groups. They are trying to present their independent identities as indigenous people of Nepal.<sup>7</sup> They feel concerned about the rights and privileges of the ethnic minority. This has challenged the existing power structures in Nepali politics and governing system. The conflicts between the minority ethnic groups and the majority caste groups will remain very strong as long as they cannot share power on an equal footing. Ignoring the ethnic causes may provoke ethnic insurgency in the long run.
- (iv) *Poverty:* Poverty is the major source of conflict in almost all the countries. It divides the people into haves and have nots. Villages in Nepal are handicapped by poverty where a few families are in control of the mode of production with the rest depending upon their mercy. The governments, after the restoration of multiparty democracy, have formulated policies and programs to alleviate poverty but have failed to reach down to the roots of

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<sup>7</sup> Parshuram Tamang et al. (eds.) *Indigenous Peoples of Nepal towards Self-Identification and Reestablishment*, Kathmandu: National Ad hoc Committee for International Decade for the World's Indigenous Peoples, Nepal, 1994.

poverty. They have not involved the poverty-stricken people in poverty alleviation programs as a result of which the gap between the rich and the poor is ever widening. As a result, the growth rate in agriculture sector is now less than 2.5 percent whereas the population growth is 2.37 percent. In an agricultural country, such a disparity between the population growth and the pace of agricultural production bodes ill for the growth process. clearly shows the situation of poverty. However the improvement in governance and increased redistributing capabilities of the central government as well as the local government in Nepal may improve the situation.

- (v) *Religion:* Religion is another constant source of conflict in Nepal in the villages. This problem has emerged especially after the restoration of multiparty democracy. The constitution of the kingdom of Nepal declares the country a Hindu State and the king a Hindu Monarch but it does not prohibit anyone from practicing their own religion. Legally, no one is permitted to convert from one religion to another religion. But due to the liberal nature of the state, massive conversions are taking place. Hari and Shyam in the hills are turning into Harry and Shayaam and Badris in the Tarai are turning into Bilals. Sunday schools and Madarasas are replacing the traditional family forms of worships and family cultures. The monasteries of Buddhist villages, which were managed by everyone in the village, are suffering because of the division of people into several sects. This is going to pose an acute problem in the Nepalese villages for a long time to come. It does not matter who follows what religion but there must be harmony in human relations.
  - (vi) *Language:* Nepal is a multilingual country. The National Language Policy Advisory Commission has listed 60 living languages in Nepal.<sup>8</sup> Some of these languages are very developed with their own scripts and some are spoken by a small number of people without any script. The advent of democracy raised people's aspiration of people about their languages. A false hope was given that they would be given primary education in their own mother tongues and their language would be considered as the national language in the constitution. No one, at the policy level, thought that one day it would bring confusion and chaos for the politicians to exploit the issue in their interest.
- c. *Economic Conflict:* Economy determines the living standard of every society. The economy of Nepalese villages is based on agriculture which contributes more than one-half of the households' income, provides employment to more than 80 percent of the people and has a significant bearing on the GDP. The land is the source of conflict as well as the means of production at the local level. Land-holding families are the feudal bosses of the villages who maintain the two distinct classes of people. The class system has established a tradition of exploitation, which exists for generations. But now, the restoration of multiparty democracy has encouraged the exploited people to speak against the injustices and inequalities. As a result, the tillers and

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<sup>8</sup> Nepal Human Development Report 2001, Kathmandu: Nepal South Asia Center, p. 8

laborers in the forms of Mukta Kamaiya or even the Maoist insurgents have challenged the economic interests of the feudals and the economic elites. Thus, the social and the political conflicts seen in the society presently are often the outcome of the resurrection of the exploited classes and their demands for larger share of economic benefits.

### **Conflict Resolution and Local Government Act, 1998.**

Conflict, as stated earlier, are pervasive and an essential part of the society because without it the society does not move ahead. It is more important in democracy as it induces discussion and debate. But conflicts must be resolved and there must be a way out for them. Otherwise the whole system can plunge into a state of chaos. Democracy, which is not only a philosophy of polity but also a way of life of every individual, must inculcate the attitude of harmony among people so that they can solve small differences among themselves without involving the formal legal structures. If conflicts are resolved in the family, community and at the village level, there will be no need of the law courts. But unfortunately, conflicts are not always resolved at the local level for various reasons. In such a situation, ways have to be found out to resolve conflicts.

In this regard, the Local Self-Government Act, 1998 can be a major medium to resolve conflict. But, does the act contain enough provisions in resolving the conflicts? Can it play the role of a mediator or an arbitrator? Does the act have the spirit or capabilities in resolving conflict?

The very preamble of the act maintains that it has been introduced to provide opportunity to the sovereign people to participate in the governance of the state and be able to enjoy the fruits of democracy. It has recognized the right of the people to be involved in the affairs of the state and entitle to acquire services and benefits from the state on an equal basis. The preamble also talks about mobilizing the resources, distributing the fruits of development in an equitable manner and involving ethnic groups, aborigines, the down-trodden and socially and economically backward people in the development process. It also intends to develop local leadership in helping people decide upon the matters that affect their daily life. But the preamble is only the spirit of the law and not enforceable in any court of law. It can guide the implementers only when they have good intention.

The LSGA has made provisions to ensure representation and access of women in local governance. According to the act, two women are to be nominated from each local government council<sup>9</sup> and at least one women member in each executive committee.<sup>10</sup> Besides this, each ward committee of the local bodies will have at least one woman member.<sup>11</sup> This way, almost 40,000 women are the representatives of local governments. The act also prescribes the local institutions to prepare and implement projects for the development of women in their respective areas.<sup>12</sup> Increased representation of women

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<sup>9</sup> Local Self-government act, 1978, Art. 8.2 (Ga), Art. 76.2 (Ga) Art. 172.2 (Anga)

<sup>10</sup> Ibid, Art. 12.2 (ga), Art. 80.2 (ga), Art. 176.2 (gha)

<sup>11</sup> Ibid, Art. 7 (kha), Art. 75 (kha), Art. 176. 2 (gha)

<sup>12</sup> Ibd, Art. 28 (Ta) : 7., Art. 96 (ja):2, Art. 189 (cha) :1

may make it easy to resolve gender-related conflicts at the local levels but again their representation alone does not count as long as their voice is not heard in the decision making process. Still, the provision of compulsory representation of women is certainly a positive move towards their empowerment.

Similarly, the socially and economically backward people of the community are nominated<sup>13</sup> to represent their class. When one says socially and economically backward, the words mean the poor and underprivileged people. Their representation in local government institutions will help them to assert their role in the development process of a locality. They are empowered to govern and be a part of the system, which can boost up their morale. Their involvement at the local level will help them in carrying out their leadership role even at the national level in the future. The act does not have provisions to resolve conflicts related to ethnicity, caste and other factors, but has tried to empower them through their participation. The LSGA has also instructed the local government bodies to carry out plans and programs to generate local income and employment opportunities, which can help in reducing poverty and lessening conflict between the haves and have nots.

In relation to religion, culture and social tradition, the act says that it is the duty of the local bodies to protect religious and cultural places and help in promoting different cultures, religion, art and languages.<sup>14</sup> The VDCs, Municipalities and DDCs are all entrusted to implement plans and programs for this purpose but there is a lack of coordination on who mediates or resolves the conflicts arising between two religions. A new kind of conflict between the traditional Buddhists and converted Christians has been witnessed in different parts of Nepal, especially in the Tamang villages. In such a situations, the need of an alternative mechanism of conflict resolution is desirable because the LSGA is quite unable to resolve such conflicts. Similarly, the controversy of language as the official means of dealing has attracted attention of people several times. Two such cases were the use of Nepal Bhasa in Kathmandu and Maithili in Janakpur but no way could be found through a non-formal method. The case went to the Supreme Court for the decision. This problem may come in the remote villages also, for which a certain mechanism needs to be developed by the villagers themselves.

### **Provisions for Conflict Resolution in the LSGA**

The Local Self-Government Act 1998 has specified a number of areas within its jurisdiction under the judicial rights of the local bodies. The act has empowered the local bodies to look through and decide upon the cases as follows:

- a. Related with land - in relation to land, the local bodies can decide upon the boundaries of the land, demarcation of land, distribution of water for irrigation and violation of public land, public road and the outlet of the natural flow of rain water.
- b. Related with crops - local bodies can decide upon the cases related with crops destroyed by someone's cattle in the field.

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<sup>13</sup> Ibid, Art. 8:2 (ga), 76:2 (ga), 172:2 (anga)

<sup>14</sup> Ibid, Art. 28 (Jha), Art. 96 (anga), Art. 189 (thha)

- c. Related with wages - cases related with wages as mentioned in (Muluki Ain)
- d. Related with bankrupt - cases related with poor and bankrupt as mentioned in Muluki Ain.
- e. Related with cattle - cases related with the lost and found cattle as mentioned by the Muluki Ain.
- f. Related with house-rent - cases related with the nonpayment of house rent, or somebody not leaving the house or shop against the wish of the owner, etc.
- g. Welfare property- cases related with welfare property as mentioned in the Muluki Ain.
- h. Related with sharing of property- the cases related with the demand of wives and children for their share in property or for livelihood.
- i. Related with drinking water and public property- cases related with the places of drinking water and protection of public property.
- j. Related with killing of female cattle- cases related with cattle except the killing of a cow.
- k. Related with pasture, fodder and fuel- cases related with pasture land for cows, buffaloes etc. and collection of fuel and fodder.
- l. Related with trespassers- cases related with someone trying to enter into someone's land and house by force. There is no separate law in Nepal regarding the trespassing but local bodies can deal with such cases under this clause.
- m. Besides, the local bodies can look into cases prescribed by the HMG through its regular notification in the *Gazette*.<sup>15</sup>

The LSGA has empowered local bodies at all levels to decide upon the cases listed above but has not yet enforced it because it will be effective only when the government publishes its notification in the *Gazette*. The purpose of these provisions is to settle disputes in villages in order to reduce the cost and labour in course of providing justice.

The local bodies have been involved in settling disputes of local people through formal and non-formal procedures throughout history. It is so because of their traditional role rather than the rights granted by any law. Now, the LSGA has provided certain judicial rights to them to resolve conflicts but they do not include every kind of conflict that can come at the local level. Local bodies can resolve only small quarrels between two parties, but serious issues like racial tension, religious and cultural conflicts and domestic conflicts involving spouse abuse are excluded. The provisions in the empower local bodies but the procedures to be followed for settling disputes are formal. The decisions made by them are subject to the appeal at the District Court. The legal experts should properly carry on the procedures, even if the case is at the grassroots level. Otherwise cases reach the district courts, and have to be reviewed from the beginning. The people then will lose their trust in the local bodies and they will go directly to the court of law instead of approaching the local bodies.

### **Methods of Conflict Resolution provided by LSGA**

Judicial settlement is the major and formal instrument in settling conflicts in society. Judicial settlement means a settlement brought about by a properly constituted judicial

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<sup>15</sup> Ibid, Art. 33

tribunal, applying rules of law for which the conflicting parties should go to the formal court of law. It is expensive as well as time consuming. It can also create more complication in the social relation of the local people. That is why judicial settlement should be the secondary method of resolving conflict. It should be used only when other non-formal, easy and simple methods fail.

Beside judicial settlement, there are other methods of resolving conflicts, such as arbitration, mediation, negotiation, use of good office and under the auspicious of the higher bodies- the central government in the case of local government. All these methods are equally important and sometimes can be used simultaneously. These methods are recognized by the international law and are well adopted by the traditional communities in Nepal because they are based on natural law. Local people usually go the local way in using mediation by *pancha bhaladmi* as in the old days.

LSGA has made a provision of constituting a committee of arbitrators in the VDCs as well as the Municipalities.<sup>16</sup> Each of these local bodies should have a ready-made list of the arbitrators in their offices.<sup>17</sup> While preparing the list of arbitrators, the local bodies should include women and people from economically and socially backward classes of the society as far as possible. Whenever there is a need of arbitrators to help or mediate between the two conflicting parties, they should choose the arbitrators from that list. There are three members in the arbitration committee. They are chosen one each by the conflicting party and the local body itself. In the case of disagreement, the member who has been appointed by the local body gives the final decision. If they disagree on the case or all three of them have different views, they may refer it to the VDC or Municipality and the decision of these latter bodies becomes final.<sup>18</sup>

The arbitration committee should try to mediate the two conflicting parties to come to an agreement by means of negotiation as far as possible.<sup>19</sup> Only when negotiation fails, the arbitrators should give their decision according to Art. 36 of the LSGA. Thus, the agreement by two conflicting parties to resolve their conflict has been given priority to the decision or verdict given by the local bodies. However, either one of the conflicting parties can appeal to the District Court within 35 days of hearing, if they do not agree to the decision given by the arbitration committee.<sup>20</sup>

## **Conclusion**

It is clear that local communities have conflicts of various types. Citizens can come into conflict with each other over situations involving relatively low monetary values but are nevertheless annoying and upsetting. It may be difficult or time consuming to take such matters to the court of law and it may be preferable to use an alternative method of conflict resolution. The LSGA has good intention of creating a better society and has included many provisions to empower the local bodies to resolve conflict in the society. It also has tried to empower women, socially and economically backward classes and other weaker sections of the society through wider representation. The provisions of arbitration and mediation found in the LSGA are positive in conflict resolution because

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<sup>16</sup> Ibid, Art. 34 for VDC and Art. 102 for Municipality

<sup>17</sup> Ibid, Art. 35 for VDC and Art. 103 for Municipality

<sup>18</sup> Ibid, Art. 36 for VDC and Art. 104 for Municipality

<sup>19</sup> Ibid Art. 37 for VDC and Art. 105 for Municipality.

<sup>20</sup> Ibid, Art. 40 for the VDC and Art. 108 for Municipality

they are more appropriate than judicial settlement for technical reasons and also less expensive. The hearing can also be conducted without publicity. But the act has not been able to make provisions which can resolve all kinds of conflicts. The methods of arbitration and mediation do not seem very practical since the arbitrators are not trained in that line. That is why, resolution of conflicts should be left to the smaller communities as far as possible and the outcome should be recognized by the formal bodies.