

***Revisiting PA buffer zones:  
Exploring legal and institutional reforms in buffer zone  
management***

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## Acronyms

ACAP	: Annapurna Conservation Area Management Project
BZ	: Buffer Zone
BZCFUGs	: Buffer Zone Community Forest Users' Groups
BZMP	: Buffer Zone Management Programme
BZMC	: Buffer Zone Management Committee/Council
CDO	: Community Development Organization
CFUGs	: Community Forest Users' Groups
DDC	: District Development Committee
DNPWC	: Department of National Parks and Wildlife Conservation
FECOFUN	: Federation of Community Forest Users' Nepal
GFP	: Growing Forest Partnership
ICDP	: Integrated Community Development Project
KMTNC	: King Mahendra Trust for Nature Conservation
MoFSC	: Ministry of Forest and Soil Conservation
NPWC	: National Park and Wildlife Conservation
NPBZMC	: National Park Buffer Zone Management Committee/Council
NTNC	: National Trust for Nature Conservation
PAs	: Protected Areas
PPP	: Park People Project
UNDP	: United Nation Development Program
UCs	: Users Committees
UGs	: Users Groups
VDCs	: Village Development Committees
WLRs	: Wildlife Reserves
WLRBZMC	: Wildlife Reserve Buffer Zone Management Committee/Council

## **Introduction**

Buffer zone management programme (BZMP) is the flagship intervention in Nepal's long history of participatory conservation. The BZMP adopts a unique approach to combine conservation with local livelihoods under a broadly conceived 'sustainable development' framework. In fact, many policy makers, conservation agencies and professionals have appreciated the BZMP as a major paradigm shift in conventional conservation approaches. Today, BZMP is being implemented in about a dozen of protected areas (PAs) covering 83 VDCs in 27 districts. Almost one million people are actively involved through diverse types of local institutions – from forest management to development activities in these BZMPs. These buffer zone (BZ) institutions are the foundation of BZMP that shape the park-people relations and ensure government policies and programmes are implemented.

However, no serious and comprehensive attempts have been made to reflect, learn and improve the programme even after one and half decades of implementation. During this time many of the original thoughts and strategies may have been revised, improved and new strategies may have been adopted in practice. Many new issues have emerged requiring a broader reframing the programme. Many of the policy and institutional arrangements are being questioned in the new political and socio-economic contexts. While many areas of park-people conflicts have been addressed, new forms of conflicts and contestations have emerged requiring a substantial change founded in fresh knowledge base.

In this context the original promoters, the practitioners and researchers all have seen a need to revisit Nepal's BZMP that the new understanding would help reinvigorate the programme to effectively deliver its promises. They suggested for a Ban Chautari around this issue to provide a unique opportunity to revisit, reflect and indentify some future strategies in order to make the BZMP further effective in delivering its promises. A semi-structured and well facilitated sharing platform that brings these three types of people together generated a healthy and fruitful reflection of the rich experience of BZMP. ForestAction and Community Development

Organization (CDO) had organized a two-day workshop under the banner of Ban Chautari on 20-21 October, 2011 in Kathmandu.

## **Participants and program**

A total of 49 participants including Chairpersons of Buffer Zone Management Committee (BZMC), activists, government officials, Federation of Community Forest Users' Nepal (FECOFUN) and researchers participated in the workshop. The program was jointly facilitated by Naya Sharma Paudel, Jailab Rai and Somat Ghimire. Presentation, open discussion and experience sharing approach were employed in order to make the workshop more participatory, issue oriented and noteworthy. The participants' list, details of the program and the presentations made in the workshop are provided in annexes.

## **Revisiting the historical evolution of BZMP**

Uday Sharma, one of the ideologues of BZ shared the history of evolution of it in Nepal and its major lessons. Dr. Sharma highlighted that Nepal is rich in biodiversity and has outstanding assemblages of plants, animals and ecosystems because of high altitudinal variation across the country. Out of 118 identified forest ecosystems of Nepal, 52 exist in the mid-hills. Because of increasing global attention on conservation, the concept of PAs was developed and institutionalized during 1961 to 1991. During this period, Royal family members showed their interest in Wildlife Conservation. As a consequence, National Park and Wild life Conservation (NPWC) Act was promulgated in 1973. It was followed by the establishment of network of PAs. In addition, a separate department called Department of National Parks and Wildlife Conservation (DNPWC) was established under the ministry of Forest and Soil Conservation (MoFSC). Further, King Mahendra Trust for Nature Conservation (KMTNC) which is now renamed as National Trust for Nature Conservation (NTNC) was established in the same period. Dr. Sharma further highlighted that there were restrictions on livestock grazing and traditional use of park resources. Local people were allowed to extract grasses and reeds in Terai PA only

during a short specified period. At the same era, he further stressed that, Nepal Army was deputed on PAs management in 1975. In addition, with realizing the peoples' participation on conservation, Himalayan National Park Regulation was issued in 1979 and also the Annapurna Conservation Area Management Project (ACAP) was piloted in 1986. In the mean time, the permission was granted to establish some Resorts inside PAs under long-term lease agreement. Accordingly to Dr. Sharma, the duration since 1991 can be regarded as the democratic era of PAs. Since then the area of Annapurna Conservation Area was extended to 7600 sq.km and with introduction of integrated community development project (ICDP). Considering the local communities participation on conservation and additional two conservation areas viz. Manaslu and Kanchanjanga were declared. In addition, the concept of BZ outside of PAs was introduced after the fourth amendment of NPWC Act in 1993. In order to institutionalize the buffer zone concept, BZ Regulations (1996) and BZ Guidelines (1999) have been enforced.

He further stressed that the programmes with landscape conservation approach including Tarai Arc Landscape (TAL), Sacred Himalayan Landscape (SHL) and North-South corridors are being implemented in recent years. In addition, the focus is more on maintaining key ecological processes, while ensuring livelihoods of local residents and being climate resilient. The areas with high impacts were identified as BZs where locally formed institutions manage natural resources and receive a share of park revenue for financing community development projects. While the active management approaches such as BZ community forests, tree plantation, energy saving technologies, livelihood support programs, saving and credit programs and compensation programs, and developing various barriers to reduce damage by wildlife have been implemented in BZ areas.

Having said this, Dr. Sharma also drew attentions to some challenges. For instance, the firewood scarcity in some areas is key issue. The establishment of the firewood depots and management of driftwood might be an appropriate option. Similarly, the provision of leasehold forestry and religious forestry is yet to be included in the BZ management. The management of resorts and

campsites in PAs should be aimed at maximizing the benefit to local communities. The timber and other forest products are not allowed to transport outside the buffer zone for commercial purposes. However, the extraction and export of stones, and boulders is allowed as these are managed by DDCs. He warned for the potential environmental consequences of uncontrolled extraction of soil, sand and boulders from buffer zones.

Local communities and line agencies are not adequately aware of the purpose of BZ and their roles. As a result, the BZMP investment is narrowly focused on infrastructure development and not on the conflict reduction and compensation. Similarly, he argued that the leaders of BZ management committees are not strong enough in decision making and program implementation. They need trainings on leadership skills and management effectiveness. The BZ institutions are too politicised as they are elected on the basis of political ideology or based on their affiliation to particular political party. As a consequence, the representation of socially and economically deprived groups is undermined. On the other hand, warden has to be busy on administrative work within the PA and hence may not be adequately motivated or may provide less priority to BZ work. There is limited policy research or impact monitoring. There is little money for many PAs that cannot attract visitors.

With the argument that the conservation of BZ is necessary for effective conservation of PAs, Lal Bahadur Rokaya, chairperson of Rara BZMC, highlighted that over 100 BZCFUGs were recently handed over from DFO to park warden's jurisdiction in Rara. Since then illegal use of forest resource has increased. He further informed that the Rara BZ is receiving only about Rs.185 thousands annually from the park administration. Since there are nine VDCs in the BZ, the amount appears too small to implement any community development project. He urged to increase that amount. Similarly, Chairperson of Koshi Tappu Wildlife Reserve BZMC, Birendra Yadav argued that the government is only trying to mobilize the local communities for biodiversity conservation in PAs, but often ignores the costs that these poor communities bear (e.g. the loss of agricultural crops, domestic animals and even human casualties). The park

administration and DNPWC are not being proactive to provide the compensation to these affected communities. He further blamed that the park administration has not monitored the extraction of stones, sand and boulders by the District Development Committee (DDC). Agreeing with the above issues, Kul Prashad Risal, Member of Chitawan BZMC, stated that there exist bureaucratic hegemony for the improper utilization of the BZ funds. He further stated that the BZMC is proactively encouraging supporting the community to install biogas to reduce pressure on forest. In addition, they are providing the compensation for damage caused by the wildlife. He complained that they are not autonomous to implement their plan due to bureaucratic hassles, political influence and weak coordination among the conservation agencies. Keshav Paudel, Chairperson of Langtang BZMC echoed similar problems. He added that the rules and regulations related to conservation shouldn't act as an obstacle in community development and livelihood improvement activities. Ganesh Karki and Thakur Bhandari of FECOFUN, stressed that the undemocratic laws and regulations should be changed immediately. Responding on the queries and issues Dr. Sharma accepted that the BZCFUGs have been significantly contributing on the biodiversity conservation. In this situation, the park administration should expedite the process of CF handover and support them. He further stressed that the resorts within the PAs should be managed only after ensuring the benefits to the community. On compensation issue he argued that the available funds for paying compensation is less as major part of the funds goes to infrastructure. BZMCs themselves have to address issues of representation, inclusion and accountability.

### **Buffer zone councils in difficulty**

In order to raise the issues of communities in BZ, Raja Ram Syangtan, Chairperson of Parsa BZMC shared his experiences and pointed to some prevailing challenges of BZMP. He claimed that the provision of BZ Regulations 1996 and BZ Guidelines 1999 are not democratic. The park administration neither let them to work nor appreciate the work they carried out. He accused the park administration for obstructing any constructive work in the area. He added that the

BZMC was formulated as an entity to represent the local communities, but in contrary to this the BZ regulation authorizes park wardens to dismiss the committees on environmental or other performance grounds. This provision has made BUCs vulnerable to discretionary decisions of the warden. He further stated that the PAs administration seems to be more focused on penalizing the local people rather than motivating them in conservation. Consequently, local people are losing their interest in conservation. Instead many of them are violating the rules and norms. The park authorities and BZ institutions have not been innovative enough to address many of the emerging issue of livelihoods, equity, and conservation. Mr Syangtan suggested for the much needed amendment of the NPWC Act 1973, to further clarify the roles responsibility of the park authority and BZ institutions. He also recommended the need of mediators to resolve diverse conflicts between the local communities and the park authority.

Following the two presentations, the participants also shared their experiences and raised their concerns, challenges and issues on BZ management. Many stressed that though the BZMCs are regarded as the representative body of the local communities, they have little autonomy to make any management decision. Therefore, many suggested amendment/reformulation of the NPWC Act 1973 to ensure the autonomy of local communities on decision making process.

Dr. Sharma brought the challenges of limited human and financial resource with the park authority. There is no separate section/division within the DNPWC. Park wardens are too busy and occupied with immediate conservation threats such as poaching and cannot prioritize buffer zone in some cases. He opined that the BZMP has not received adequate attention of the authorities that it deserves. Therefore, he suggested organizing such forum more frequently to draw attention and to increase understanding among the stakeholders.

### **Issues of implementation of BZ concept in Nepal**

Dr. Maheshwor Dhakal, Ecologist, DNPWC, gave a presentation on the topic 'current scenario of PAs and the government's conservation approach. He highlighted the issues of implementation

of BZ concept and suggested some new implement ideas for more effective execution. This section briefly summarizes his presentation.

Nepal consists of 118 types of ecosystem, among which more than 80 types of ecosystem are in PAs. There are 32 PAs including 12 BZs. The main objectives of the PAs are to conserve the ecosystems, and conservation and scientific management of wildlife, plants, and areas having historical, cultural and religious importance. In addition, it also aims to enhance the peoples' participation on conservation and resource management. The third objective of PAs is to promote the tourism in PAs without any negative impact on natural resources. In order to achieve these objectives, the government of Nepal has prepared and enforced various policies and laws including NPWC Act (1973), NPWC Regulation (1974), Wildlife Reserve regulation (1976), Himali National Park Regulation (1980), BZ Management Regulation (1996), Conservation Area Management Regulation (1997) and Conservation Area Public Management Regulation (2000). It has further signed and ratified various international treaties and agreements including CITES, UNESCO World Heritage List, Ramsar Convention, and Global Tiger Forum in order to participate and show its commitment on the conservation activities in Nepal. The Government of Nepal is preparing and implementing an annual plan and five year management and action plans, for more effective contribution on the biodiversity conservation. In recent years, the concept of multi-stakeholder conservation approach has become the norm. After setting up of certain institutional criteria, 30-50% of the total income of PA is distributed to the local communities through BZMC. Nepal government is also getting support for the conservation from different donors, I/NGOs, CSOs and international communities. As the CSOs are becoming stronger and influential they are pressing for more decentralization through policy and legal reform. However, despite all these efforts the implementation of decentralized approach is not yet effective since we primarily failed to prioritize our objectives. Further, the human resource in DNPWC has remained constant despite huge increase in its territorial responsibilities. The government and other stakeholders have failed to reform their organizational set up along with the policy and prevailing laws. Further, he suggested to create more financial capital in PAs

through increase in royalty rate, capitalizing reducing emissions from deforestation and forest degradation (REDD) and payment for environmental services (PES), approaching with new donors, and collaborating with governmental and non-governmental partners in order to address the financial constraints. There is dire need to support to human resource development of the DNPWC. Indicating existing park-people conflicts, he urged stakeholder to help resolve those issues through constructive dialogue. The presentation was followed by a question answer session.

Mr. Thakur Bhandari of FECOFUN argued that the community rights and ownership has to be increased by involving them on conservation with full autonomy since the government's human resource is limited. He added that the government officials perceive themselves as superiors, intellectuals in conservation and undermine the efforts of the local communities and other stakeholders. This is against the principle of co-management. He, hence, argued that the government should delegate the right to communities in practice instead of blaming them. Raja Ram Syangtan, saw bureaucratic hegemony as the key constraint in decentralized resource governance. The BZ Council chair of Bardia pointed to the illegal activities of army personnel inside the parks. He urged an objective examination of such events to find out who are the real stewards of nature.

In response to these issues raised, Dr. Dhakal claimed that the government officials are committed to contribute on conservation on the basis of the provision described in the policies and laws. They want positive results, but through a standard procedure under given laws. This detail processing is a bit slow process; however the communities want results sooner. Hence, this process becomes the main reason of misunderstanding between the government and communities. For which he suggested that all stakeholder must sit together and discuss in detail over all the issues of BZMP and reach to some common understanding on all major issues.

## **Decentralization for buffer zone management**

Considering the community demands for their autonomy and rights on natural resource management, the issue of decentralization of power has dominated the discussion. Towards this end, Bihari Krishna Shrestha, Senior Social Science Researcher presented the conceptual framework of BZ from decentralization point of view.

Mr. Shrestha floored the idea that the concept of BZ was developed as the neutral space between the two hostile forces that serves to prevent conflict. These BZs eliminates chances for mutual hostility since both government and communities have no vested interest to transgress the law in order to ensure their co-existence. Similarly, the concept of user groups (UGs) in BZ was developed as an organization of the direct stakeholders (users) accessing certain services. It is considered as an exclusive organization of users with exclusive decision-making authority. In addition, UGs have been recognized as a self-sustaining institution exercising self-contained authority to define their problem, develop and implement plans, mobilize resources, and formulate and enforce their own rules and regulations. The PAs have been distributing their 30-50% of total income to communities through BZMC for planning and implementation of programs in BZ. However, expressed concerns over the poor performance of BZ that did not resolve the conflicts. Instead, the scheme as in some cases increased conflicts within local communities and with authorities. Some of his thoughts are summarized below.

1. The approach does not create a "neutral space". We could have more trees planting to avoid strong stake of local communities and authorities. The government can support and encourage the local people by compensating their time, contribution and forgone loss of forest resource use.
2. Continued donor intervention (e.g. Park and People project) always delayed the search to find out the real solutions,

3. The UGs and other higher level federated entities, do not manage any service or infrastructure, and hence, unable to contribute in the “buffering” impact. Rather, the elite capture on resources made the BZ concept even worst
4. The structure lacks coordination with the VDCs and FUGs; the latter’s lack of more prominent role is particularly striking,
5. No basic data of the socio-economic composition of the population in the “buffer zone”,
6. Lack of on-going analysis of the incidents of “conflict” between the wildlife and neighboring population in BZ.

Mr. Shrestha suggested the following ideas for the effective implementation of BZ concept along with the decentralization of the power to the local communities:

1. The search for new ideas must continue for creating the “neutral space”.
2. Decentralization needs to be customized for imperatives of wildlife conservation since decentralization is only a partnership between the state and the local communities for achieving greater efficiency and effectiveness for conservation activities, and
3. Other possible opportunities, such as increasing the urbanization and possibility of creating a neutral space without human habitation too should be considered for which possible policy instruments also have to be explored.

After the presentation the participants raised their issues focusing on the power sharing and decentralization in BZ:

Kul Prashad Risal, from Chitwan, said that the conflict between PAs and the local communities is hard to minimize. We needs some major change in policy and legal framework. Similarly Mrs. Apsara Champaign of FECOFUN posed the question to Mr. Shrestha that whether the concept of BZ was wrong in Nepal or is it, its implementation process has been ineffective? On the other hand, Dr. Udaya Raj Sharma argued that the concept of BZ had not been developed as a neutral area. Instead, it was developed for community participation and decentralization of power to them. However, the feeling of actual decentralization in community level mightn’t be realized. Krishna Paudel, Chair of Langtang BZMC and Jaya Ram BK, Chairperson of PAs affected

community forum urged to change the current policies since it has been limiting the access of community on natural resources.

Responding to the issues raised by the participants Mr. Shrestha claimed that the conservation activists and the policy makers until now haven't introduced any innovative ideas in order to implement the conservation activities effectively along with ensuring the community right on the resource management. Even the BZMP has not resolved it during last 17 years. So, he stressed to think the whole concept from 'out box' and generate the innovative ideas in order to reduce the park people conflict and increase the community right through decentralization.

### **Panel discussion: contestation and negotiation in BZ**

Following the presentations and open discussion sessions, a panel discussion session had been conducted aiming to raise the issues from community level, government authorities and the activists in order to find out the way forward to address the issues raised. Mr. Krishna Prashad Acharya, Director General of DNPWC, Mrs. Apsara Champaign, Chairperson, FECOFUN, Mr. Somat Ghimire, an activist, Mr. Shiva Raj Joshi, Chairperson, Khaptad NP BZMC and Mr. Jaya Ram BK, PA affected peoples' right forum, Bardiya were invited as the panelists. Naya Sharma facilitated the discussion. All the panelists presented their perspectives on the PAs and BZs issues and further responded to the questions asked by the participants in the open discussion session.

### ***Perspective of Shiva Raj Joshi, Chairperson, Khaptad BZMC***

Shiva Raj Joshi talked on policy and legal constrains and roles of stakeholders in facilitating or hindering BZ programme. He pointed that the both park staff have a weak presence mainly due to low accessibility (Mountainous region). The wardens get frequent transfer away from Khaptad and we usually have to rely on a ranger. The last ranger was transferred recently. There is little communication and coordination between park authority and BZMC. While around 250 army personals have been deputed for protection they none of us monitor their activities and we do not know their performance. None of the over 70 potential CFs are not handed-over yet. *"We*

*have been receiving a total of NRs 80,000 annually which is too little to support any meaningful development initiatives in the region. How to divide the money into 14 BUCs where the users are always seeking a large support?"* Mr. Joshi questioned. Unfortunately, none of the donor agencies work there, all are concentrated in more accessible areas such as central hills or in Terai. The park wardens often show the legal mandate and demonstrate rigidity regarding the mobilization of available funds. It appears that we should start from changing the PA act 1973.

***Perspective of Jaya Ram BK, PA affected peoples' right forum, Bardiya***

Jaya Ram firmly established the rationale for establishing the Protected Area Rights Forum despite the presence of many I/NGOs and civil societies. He was involved in organizing marginalized, poor, Dalit and other PA affected peoples so as to articulate their voice at higher levels. These groups have not benefitted from current provisions and practice of compensation though they are the most losers. Even human rights activists are keeping blind eyes. As the NPWC Act 1973 is the key legal instrument, he strongly requested all participants to work towards reformulating the Act.

***Perspective of Apsara Chapaigh, Chairperson, FECOFUN***

Asked for the response of FECOFUN about the possible reason behind the inequality of the community rights on BZCFUGs and other general CFUGs, Mrs. Apsara Chapaigh, claimed that the BZCFUGs handed over according to BZ guideline have more problems, issues and challenges than CFUGs handed over under Forest Act 1993 in terms of community rights and autonomy. There are different issues on governance, benefit sharing, leadership and autonomy. Unfortunately BZCFUGs have been formulated under the centralized policy and hence they are being the victim of bureaucratic hegemony. She further pointed to the need of policy advocacy for more rights of BZCFUGs. She assured that FECOFUN's preparedness to provide leadership to necessary mass movement to pressurize the government for increased rights of forest dependent communities in BZ. She informed that FECOFUN had made amendment in its constitution to include non CF forest user groups as its constituency by inviting them for

membership. She appreciated the idea of more Ban Chautaries on PA governance issues. Finally, she argued in favor of reframing of NPWC Act 1973 in order to ensure the community involvement, autonomy and woman participation in the conservation, community development and livelihood improvement activities in BZ.

***Perspective of Somat Ghimire, Chairperson, CDO and activists***

Somat posed questions on issues on power relations, conflict, and problems within the institutional structures of BZ and in between BZ and government. He argued that people might not have opposed the idea of PAs in those days as they were suppressed by the then political regime. But they never took the ownership of conservation programme as they were alienated from their resource base. However the scenario has been changed, since now the local communities are demanding for their autonomy on conservation and the private sector is also demanding for their role on conservation, which needs to be appreciated. The introduction of BZ appeared to have recognized the conflict between PA and local communities; unfortunately it did not deliver its promises for varieties of reasons. The BZMC is narrowly conceived and mobilized by the park authorities as an institution to distribute the community development projects. This seriously undermined the potential roles of these representative institutions. He also highlighted that the BZMCs do not enjoy autonomy to decided, plan and implement local environmental and development affairs. It is too costly to hold the DNPWC DG responsible for a rhino poaching in Bardia. That must be locally dealt with. In fact, this tendency has made local communities less accountable and disinterested for the conservation. On the other hand, the resource management right in PAs and BZs, including forest and water resources which are the major means of community livelihood, are yet to be entrusted to the communities. Such delay further discourages the communities for taking part in conservation activities. Mr. Ghimire strongly emphasized to develop the BZMCs as an autonomous institution; which should have the full right to raise and solve the community issues.

### ***Perspective of Krishna Prashad Acharya, DG, DNPWC***

Krishna Acharya claimed that the concept of BZ is a progressive and positive step of in PA governance, which was developed and implemented after the realization of park-people conflict, in the expectation to minimize it. He clarified that DNPWC has also realized some shortcomings of NPWC Act 1973, but unfortunately its amendment is getting late, as the country is going through state restructuring phase with a prolonged political transition. He mentioned that there are around 900 persons working under DNPWC, who have the responsibility of conserving and managing of about 23% of the total area of the country, which is almost impossible. He urged to support DNPWC to get more people in its human resources. Similarly, he also accepted that the existing human resources of DNPWC are not trained enough to mobilizing the communities for conservation. He also added that a single warden has to be accountable to manage and protect both PAs and BZ. Park staff may have been unable to show their best performance due to the overstretched workload. He also cleared that DNPWC generally allocates and releases the budget to BZs only after receiving the activities plan from BZMCs. Hence, he appealed BZMC chairpersons to send it sooner rather than to blame DNPWC for delaying on the releasing of the budget. He also accepted that the amount given to the communities as compensation is less but promised his commitment to approach the ministry to increase it. Also, he added that the policies treat everyone equally in providing the compensation. For an example, the compensation amount for per hectare of crop loss will be same whether the landowner owns one hectare or 100 hector. But the actual impact would be different for the two farmers. He also recognized the need of more decentralized governance but demanded more responsibilities existing policy is centralized and hence has to be reformed in order to ensure the decentralization of power. He then expressed his commitment to take initiatives for existing policy reform in collaboration with other stakeholders and demanded the conclusions of this workshop along with the recommendation.

Presentation by the panelists was followed by open discussion in which numbers of issues were raised. During the period of grass collection from the reserve area, the reserve administration

generally provides an entry permit to the local people. However, Birendra Yadav, Chairperson of Koshi Tappu WLBZMC, claimed that the army deployed for the conservation of WLR did not follow the process giving local community's hard times for the grass collection. In addition, Lal Bahadur Rokaya, of Rara questioned about the delay of the handover of BZCFUGs to the communities. Similarly, Mr. Thakur Bhandari asked why there is delay in amending/reformulating the NPWC Act 1973 despite assurance by the authorities in several occasions. Some of the participants suggested reformulating the Act for creating legal environment that is conducive to active participation of women and other marginalized groups in decision making processes. Responding to the queries Mr. Acharya claimed that the case of Khaptad WLR is the issue of management rather than a policy issue, but assured that he will check it. He informed that the DNPWC has got a funding of USD five hundred thousand which will be spent on the capacity building of the BZ communities.

## **BZMP governance and institutions: viewing from decentralization and participation**

Following the brief recap of the discussion held on first day of the workshop, Dr. Prabhu Budhathoki gave a presentation on the existing governance in BZMCs and discussed the potential structural reframing for its decentralization on the first session of second day workshop.

Dr. Bhudathoki highlighted that the concept of BZ was primarily developed to minimize the pressure of local communities on PAs through forest resource generation in BZ area in order to fulfill their demand of forest resources. However, there are two major issues regarding the resource demand: a) whether the forest resources in BZ could be generated as per the community demand or not and b) where would be the source of it if BZ couldn't fulfill the community demand? Even in the case of Chitawan NPBZ which is recognized as the most resourceful BZ, only about 60% of the total forest resource demand of the community has been fulfilled from BZ and remaining 40% of forest resource demand has been fulfilling from core

area of CNP. In this context, Dr. Bhudathoki argued that the close coordination between PAs and BZs would be crucial in order to reduce the park people conflict. Similarly, he mentioned that despite generous international support Nepal has been unable to bring significant economic gain.

The issues of good governance, livelihood, community rights and conservation in BZ are mounting these days. He argued for integrated planning to implement the landscape conservation approach through existing policy reform in order to address these issues. Similarly, the contribution of income from PAs to the local livelihood has been a constant concern. For instance, the total annual financial transaction in CNP is around Rs.100 million. However, the per capita share is very less due to high population in buffer zone. In addition, only 40% of it reached to the community most of which is invested in the community infrastructure development activities rather than on the livelihood improvement activities of the marginalized people in BZ. Similarly, he claimed that the BZ institutions are not adequately inclusive with little presence of marginalize communities and women. He hence argued for the policy reform in order to ensure the decentralization, community autonomy, community right and accountability. He mainly barbed two main benefits of community involvement on effective conservation: a) they prepare themselves effective law for effective conservation, and b) themselves responsible for the implementation of the prepared law.

Following the presentation of Dr. Budhatoki, participants shared their experiences and raised additional questions about the institutional structure and the governance issues in BZ. One participant claimed that the local communities in BZ don't have the autonomy on the forest resource management and utilization. For an instance, local communities in BZ can't vend the timber and even the driftwood. However, it is heard that India is earning millions of money by trading the driftwood drifted from Nepal. Similarly, another participant raised the issue of existing conflict between PA and BZ and asked about the reason behind being failed to wipe it out despite having enough resources, government, policy and experts in Nepal.

Responding to the query posed by participants, Dr. Bhudathoki argued that BZ is not the "No Conflict Zone". So, the eradication of conflict completely in BZ is not possible since it is a natural process but we can minimize it. However, it is still the zone of co-existence, cooperation and interference. Comparing to the previous day's discussion Dr. Budhathoki claimed that the level of conflict between park and people is decreasing and the cooperation between them is gradually building. Nonetheless, local communities have yet to get the autonomy on decision making and hence he further urged to reform the existing policies related to PAs in order to ensure the community right on resource conservation, management and utilization through decentralization and institutional reforming in BZ.

### **BZ Legal and regulatory framework and reframing process**

Existing regulatory framework in BZ and the process of policy reframe was presented by Mr. Prakash Chandra Adhikari, Legal Officer of MoFSC. Mr. Adhikari highlighted that the NPWLC Act 1973, BZM Regulation 1996 and BZM Directive 2000 are the major policies related to BZ. According to these existing policies, the government can declare any specific area as a PA considering its social and geographical aspect along with the natural resources and need of biodiversity conservation. Similarly, the government can also declare the BZ area outside of the PAs under the provision of these existing policies. Warden will be more responsible to prepare the management plan of each BZ and then approve it from MoFSC, while the UC will prepare their work plan and warden's approval is needed for its implementation. On the other hand, warden has full right to dismiss the UC if found any violation of rules. Similarly, certain area of BZ can be handed over to community as BZCF after the approval of their operation plan from warden. Regarding the benefit sharing, 30-50% of the total income of PA will be provided to the community through BZMC which has to be invested as per the existing guidelines.

After briefing about the existing policy provisions about PAs and BZs, Mr. Adhikari mentioned about the policy reforming process. He indicated that the policy reforming is the long process.

According to him, after identifying the issues that have to be amended or reformed on the policy, the community should submit it to DNPWC for institutionalization of the issues. After intensive discussion with in DNPWC, the document should be forwarded to MoFSC where the amendment or reforming process has to be formally initiated. MoFSC then will intensively discuss with in the ministry and also with experts and finalize the amendment draft and forward it to Ministry of Law. After preparing the document as per the existing legal format, Ministry of Law resends the amendment draft to MoFSC; thereafter the Forest Minister has to present it on the cabinet meeting along with the amendment or reframing proposal. It should then forward to the parliament as the amendment bill, once the proposal passes from the cabinet. After open discussion in the parliament, the amendment bill should be passed from there and then only it will become legally enforce amended policy. Mr. Adhikari suggested making all the stakeholders including minister and parliament members aware about the actual issues of the communities and the need of amendment of existing policies related to PAs. He further mentioned that the policy amendment is a bit easier process, since it takes shorter process rather than the reforming of the policies and hence suggested to approach for the amendment of existing PA related policies rather than its reframing.

Following the presentation of Mr. Adhikari, the participants added some issues of the BZ and posed their query about the legal process to address their issues. One of the participant mentioned that access of the community to forest resources in BZ is limited compared to the other communities. Hence, he argued to delegate the equal right to all people in the country as per the principle of "Equality before law". Similarly, arguing the drastic change of the current context and the context during the development of NPWC Act 1973, participants again urged to reform the NPWC Act 1973.

Mr. Adhikari accepted that the communities haven't been getting autonomy on decision making and right to resources as per the principle of decentralization in existing PAs. He further accepted that the policies have provided more rights to the warden which sometimes

discourages the communities for conservation. Hence, he urged to discuss with all stakeholders including government authority for development of common understanding in order to reform the existing policies rather than blame each other.

### **Major concerns of local communities and government agencies**

The BZ issues have been intensively discussed in the workshop. In addition, the experiences of both BZMCs as the representatives of communities and the government official as the representative of law enforcement authority have been shared. There were different issues raised from the stakeholders, which ultimately indicates that there are two types of interest in BZ.

The BZMCs as the representative of the communities have constantly raised the issue of their right on resource conservation, management and utilization along with their autonomy on decision making. They have blamed that the government have more autonomy in the BZ, which they exercise through the wardens. BZMCs raised the issues that the warden is overlooking the community needs and focusing to limit their access to forest resources in the name of conservation. Moreover, they demanded for the decentralization of power to the community and strongly urged to reform the existing policies related to PAs specially the NPWC Act 1973 in order to acknowledge their contribution on conservation and ensure their right on BZ management.

On the other hand, the government officials have persistently presented themselves as the law enforcement and implementation authorities in PAs. They accepted that the conservation activities haven't been implementing efficiently due to resource limitation. They have further accepted that the local communities are contributing significantly on the conservation in BZ but their right on resources and autonomy is compromised. Hence, they indicated to amend the policies in order to create more space of communities on conservation, management and utilization of resources in BZ.

Observing these two different interests, it can be alleged that the communities have been raising their issue which directly related to their livelihood while the government authorities have been focusing the top-level or policy level issues. Interestingly, the researchers and activists were aware about both of these interests and attempted to clarify it in the workshop. Hence, they could be the mediator between them in order to create the win-win situation along with the biodiversity conservation and supporting on the livelihood improvement in BZ.

**Major output: common understanding on policy reforms**

Despite the different interest and understanding of communities and government authority regarding the conservation practices in PAs, common understanding has been developed through this workshop. It is realized that the conservation practice is being more centralized, ignoring the community interest and need for their livelihood. It is further realized that there is no option except the collaboration between government, communities and other stakeholders for conservation activities. Hence, all the participants realized that the policies related to PAs have to be reformed to ensure community rights on conservation, management and utilization of forest resources, autonomy on decision making and more accountability to them for effective conservation practice. Following were the main issues identified and suggested by the participants of the workshop which need to be addressed on policies:

Table 1: Key policy provisions requiring revision

<b>Existing provisions in policies</b>	<b>Proposed provisions need to be included/reframed</b>
<p><b>Preamble:</b></p> <ul style="list-style-type: none"> <li>• Maintaining the facility of the locals through conservation, management, development and utilization of resources in PAs/BZs</li> </ul>	<p><b>Preamble:</b></p> <ul style="list-style-type: none"> <li>• Sustainable management, utilization and equitable sharing of benefit obtained from PAs on the basis of law of international and worldwide principle of justice</li> <li>• Collaboration between government, local</li> </ul>

	communities, IPs and other stakeholders on conservation practice
<p><b>Objectives of PAs:</b></p> <ul style="list-style-type: none"> <li>• Can be declared if felt need (unclear objective)</li> </ul>	<p><b>Objectives of PAs:</b></p> <ul style="list-style-type: none"> <li>• Conservation and sustainable management of resources and equitable benefit sharing</li> </ul>
<p><b>Managerial role division:</b></p> <ul style="list-style-type: none"> <li>• Government, PAs and Council</li> </ul>	<p><b>Managerial role division:</b></p> <ul style="list-style-type: none"> <li>• Can be the state, communities or the private based on dialogue</li> </ul>
<p><b>Management plan:</b></p> <ul style="list-style-type: none"> <li>• Responsible officer has the rights to give permit for hunting, removal of natural resources or similar activities</li> </ul>	<p><b>Management Plan:</b></p> <ul style="list-style-type: none"> <li>• Technicians prepare the management plan that should be approved by the locally formed councils</li> </ul>
<p><b>Representation in BZMC, Management committee and user committee:</b></p> <ul style="list-style-type: none"> <li>• Users Committee, DDC and Warden</li> </ul>	<p><b>Representation in BZMC, Management committee and user committee:</b></p> <ul style="list-style-type: none"> <li>• Inclusive representation of community, local government and other government authorities, private sector and other stakeholders</li> <li>• Inclusive election system</li> </ul>
<p><b>Legality of BZMC, Management committee and user committee:</b></p> <ul style="list-style-type: none"> <li>• Semi-legal and weak</li> </ul>	<p><b>Legality of BZMC, Management committee and user committee:</b></p> <ul style="list-style-type: none"> <li>• Full autonomy to community formed Council in case of community managed ones</li> <li>• Council as a legitimate legal body with substantial power in case of co-managed schemes</li> </ul>

<p><b>Management committee:</b></p> <ul style="list-style-type: none"> <li>• Same as the role of users committee</li> </ul>	<p><b>Management Committee:</b></p> <ul style="list-style-type: none"> <li>• Managerial and coordination role</li> </ul>
<p><b>Users Groups:</b></p> <ul style="list-style-type: none"> <li>• No description in provision</li> </ul>	<p><b>Users Groups:</b></p> <ul style="list-style-type: none"> <li>• Legitimate right to implement the management plan</li> </ul>
<p><b>Benefit sharing:</b></p> <ul style="list-style-type: none"> <li>• Based on development projects</li> <li>• Funds get disbursed from government red book</li> <li>• Reinvestment of funds to the area from where it is raised</li> </ul>	<p><b>Benefit sharing:</b></p> <ul style="list-style-type: none"> <li>• Balance between the expenditure on community development activities and the livelihood support to poor and marginalized PAs affected communities</li> <li>• Direct payment of the income from PAs to the communities</li> <li>• Form a biodiversity conservation trust fund <ul style="list-style-type: none"> <li>☞ Distribute the 50% of total income from PAs to respective PAs, 25% to the government treasure and 25% to the trust fund; add additional fund on it from government and donors and finally provide it to the PAs having less income</li> <li>☞ Use this fund to provide the compensation also.</li> </ul> </li> </ul>
<p><b>Enterprise, services and resource mobilization:</b></p> <ul style="list-style-type: none"> <li>• Sole rights MoFSC to select the service provider and fix the service charge</li> </ul>	<p><b>Enterprise, services and resource mobilization:</b></p> <ul style="list-style-type: none"> <li>• Respective park office has the right to identify the service provider on the basis of certain norms and criteria and should get approval from the BZMC</li> <li>• Right to DNPWC to dismiss the license or permission and has the judicial power if agreements are violated</li> </ul>
<p><b>Poaching control:</b></p> <ul style="list-style-type: none"> <li>• Full right and responsibility to</li> </ul>	<p><b>Poaching control:</b></p> <ul style="list-style-type: none"> <li>• Separate agencies have to be involved to investigate</li> </ul>

warden/government officer to investigate and decide the case	and decide the case <ul style="list-style-type: none"> <li>• Provision to oversee the case of poaching through court</li> </ul>
<b>Monitoring and reporting system:</b> <ul style="list-style-type: none"> <li>• No provision of monitoring and reporting</li> </ul>	<b>Monitoring and reporting system:</b> <ul style="list-style-type: none"> <li>• Provision of monitoring, reporting and informing the public whether the international agreements, treaties and decisions related to PAs have been implemented or not</li> </ul>

**Conclusion and way forward**

The community leaders, park officials and other stakeholders have realized that the existing PA policies and legal framework require reformulation to suit to the changing socio-political dynamics. The understanding of the biophysical phenomena has changed, communities have become increased their performance in managing resources, new actors have emerged and the actor configuration has changed. In this context NPWC Act 1973 has become less relevant in accommodating the new realities. Besides, the limitations with the techno-bureaucratic approaches to environmental challenges have also been realized. At the same time, local communities have increasingly been demanding more accountability of state institutions and seeking more democratic power relations in managing local affairs. In fact, these new realities and people’s aspirations dominated the workshop. Here are some conclusive remarks.

- The government is not yet fully convinced on the communities’ capacity to deliver conservation goals, and therefore appears reluctant to fully devolve power.
- While BZMP sought to involve communities in conservation and development activities, the existing legal and institutional frameworks provide limited space for local communities and their institutions.

- As income from tourism varies hugely across the PAs, we need some mechanism for equitable distribution of conservation benefits. There is little agreement on how to frame this. While those with little income highlighted the issues, others with high income tended to avoid much debate on this issue.
- Compensation process is slow and there is simply not enough money to compensate different types of wildlife related losses. Even those PA with high income have not been able to pay full compensation on time let alone those having very small earning.
- Contrary to its ideals the BZMP has not been able to adequately address the park-people in several cases.
- In most of the cases the PA authorities exercise power just to ensure sustainable management of park resources and protect the integrity of the sites. However, at the other end, the BZ institutions also have been demanding more rights so that they can better contribute to the conservation activities.
- Stakeholders realized that reforming policies and laws is a long and complex process involving a number of political, bureaucratic and technical aspects.

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## Annexes

### *Annex 1: Participants list*

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## ***Annex 2: Program Schedule***

<b>Time</b>	<b>Particulars</b>	<b>Responsibility</b>
<b>Day-1</b>		
8:30-9:00	Breakfast	
9:00-9:30	Welcome, introduction, objective of the programme	Jailab Rai, ForestAction
9:30-10:00	Revisiting the historical evolution BZMP: What can we learn to link conservation with livelihoods?	Uday Sharma: Ex Secretary MoFSC
10:00-11:00	Buffer zone councils in difficulty: exploring ways to reconcile official concerns on conservation with the interests of local communities	Raja Ram Syantang: BZ Council
11:00 -11:30	Issues of implementation of BZ concept in Nepal	Ecologist, DNPWC
11:30-12:00	Tea	
12:00-12:45	BZMP governance and institutions: viewing from decentralization and participation	Prabhu Budhathoki
1:00-2:00	Lunch	
2:00-4:00	BZMP idea concept and everyday practice: areas of concerns and avenues for reform - open discussion	Bihari Krishna Shrestha

	<b>Panel discussion</b>	
	Contestation and negotiation within buffer zone planning and implementation; stakeholders views (Each panelist would get 7 minute each for their part to response to the structured questioned posed by the facilitator )	Dr. Naya S. Paudel will facilitate the discussion
	<ol style="list-style-type: none"> <li>1. Krishna Acharya – DG, DNPWC</li> <li>2. Apsara Chapagain – Chair, FECOFUN</li> <li>3. Somat Ghimire- Activist (on PA)</li> <li>4. Shiva Raj Joshi- Khaptad BZ Council Chair</li> <li>5. Jaya Ram BK – Protected area rights forum</li> </ol>	
4:00-4:30	Summary and wrap up of the day	Dr. Naya S. Paudel
<b>Day-2</b>		
8:30-9:00	Breakfast	
9:00 – 9:30	Presentation of summary of Panel Discussion of Day 1: Identification of areas of focus for policy reform	Dr. Naya S. Paudel
9:30 – 10:00	BZ Legal and regulatory framework: available spaces and constrains	Prakash Chandra Adhikari, MFSC
10:30-11:30	Policy intent and BZMP in everyday practice: A gap analysis in Group work	Mr. Somat Ghimire will facilitate the discussion
11:30-12:00	Tea	
12:00-1:00	Recommendation for reform on policies, institutions:	Dil Raj Khanal
1:00-2:00	Lunch	
2:00-3:30	Further step and continuity of the dialogue	Mr. Somat Ghimire will facilitate the discussion
3:30- 4:00	Summary and wrap up	Dr. Naya S. Paudel

### ***Annex 3: Presentations***

The power point presentation slides presented on the workshop are attached as the separate file.

### ***Annex 4: Photo gallery***

Some photo snaps of workshops are attached as the separate file