

An Interaction on

**Recognizing and Supporting Indigenous and Community
Conserved Areas: A Promising Complementary Approach
to Biodiversity Conservation in Nepal**

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Department of National Park and Wildlife Conservation, Kathmandu

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INTRODUCTION:

The concept “indigenous and Community Conserved Areas (ICCAs)” is one of the issue of debates among stakeholders of Biodiversity conservation. However, policy advocacy is critical for the advancement and promotion of ICCAs in the national policy debates. With the realization of the importance of organizing an interaction among officials in Department of National Park and Wildlife Conservation (DNPWC), the interaction program on ***"Recognizing and Supporting ICCAs: A Promising Complementary Approach to Biodiversity Conservation in Nepal"*** was organized on December 2, 2012 at the DNPWC.

The program was jointly organized by the DNPWC and ForestAction Nepal. In the program, senior ecologist at DNPWC, Dr. Maheshwor Dhakal briefly shared his personal reflections on the Eleventh Conference of Parties to the Convention on Biological Diversity (CBD COP 11) held at Hyderabad, India from 8-19 September 2012. Subsequently, a presentation on the context and relevance of ICCAs with special highlights on the international policies, decisions, conventions, declarations and strengths and weaknesses of national policies and legislations was made by Mr. Jailab Rai from ForestAction Nepal. A total of 12 DNPWC officials were present during the program and expressed their personal responses and opinions towards the issue.

Based on the presentation and the international and national policy context, the participants at the program shared their personal opinions and responses on the issue. The discussion was framed on the relevancy of ICCAs and the steps for its enhancement. The following questions were discussed during the program.

- Are ICCAs relevant in Nepal?
- If they are relevant, what can we do?
 - Is it time to revise the existing policies and legislations?
 - If yes, what aspects are most important to be addressed? And if not, why?
 - Do we need to initiate ICCA specific laws in our country? If so, how can we do it? If not, why?

SUMMARY OF THE PRESENTATIONS:

Dr. Maheshwor Dhakal in his presentation, shared about Nepal's position in the CBD COP 11 and his personal observations on the issue. Some of the highlights of the presentations are as follows:

- CBD COP is very important international platform to influence actors, but its outcomes in terms of benefit for the country depends upon the capacity and experiences of the state and state representatives in negotiating the parties for its benefits;
- The capacity and experiences of Nepal in the CBD COP process has been very poor both in terms of influencing and understanding the process and intervention in diplomatic ways;
- The weak position of the country is mainly because of the political instability and less political priority on the issue.

Following the first presentation, Mr. Jailab Rai through his presentation highlighted ICCAs, discourses from global through national levels and its relevance in Nepal. Moreover, the provisions of how indigenous people's customary rights and practices related to biodiversity conservation on World Park Congress (WPC), Convention on Biological Diversity (CBD) and its Conference of Parties (CBD COP), Program of Work on Protected Areas (PoWPA), World Conservation Congress (WCC), Aichi Target, ILO 169 and UNDRIP were introduced. These provisions were linked with how they complement in biodiversity conservation. The strengths and weaknesses of policies and laws on biodiversity conservation in Nepal was another issue of discussion. Finally, the presentation was concluded with pointing out some arguments on why recognition ICCAs are relevant in Nepal.

SUMMARY OF THE RESPONSES AND OPINIONS OF PARTICIPANTS:

The participants of this interaction have shared their personal responses and opinions on the presentations and then their argument on whether the ICCAs are relevant in Nepal or not. Summary of the arguments, respondents, and opinions are as follows:

- Nepal is far ahead in terms of formulating progressive policies on protected areas, but the problem lies with its proper implementations;
- If the revision of the existing policies and laws on protected areas is felt necessary, then an in-depth study is a pre-requisite;

- However, some of the revisions can be made in the regulations to address the needs, issues, and concerns of the people;
- Land or territories which have not been managed by anyone or not handed over to any institutions or community can be made ICCAs;
- For the recognition of ICCAs, unbiased study is a must to unearth the practical realities;
- Variables and parameters of measuring ICCAs are site specific and they may be like Amoebas, however ICCAs may exist in particular countries which can be addressed after the local election with the provision of local autonomy act;
- The concept of ICCAs seems like it has been adopted through international practices which may not be easy to replicate elsewhere and Nepal is not an exception. It must be understood in the different context and situations;
- ICCAs seems like a way of isolating some communities from the wider social and political interrelations and integration, which is not good;
- Conservation solely by the communities cannot be sustainable rather it creates conflicts between communities and also subject to the elite capture.

SUMMARY AND CONCLUSION

The recognition and support to the ICCAs in Nepal has become an issue of debate among the stakeholders today. When talking about ICCAs, the adequacy or inadequacy of existing policies and laws on protected areas and biodiversity conservation has also become an issue of debate. The government officials involved in biodiversity conservation argue that, existing conservation laws are adequate to address the issues and concerns of the people and they question on the relevance of legal provisions for ICCAs. In contrast, representatives of the ICCAs clearly demand for their legal recognition.

Similarly, the understanding of the concept of ICCA is still not clear among the government officials. What ICCA is and how it could support biodiversity conservation needs to be discussed further, because most of the government officials still perceive ICCAs as a completely new form of biodiversity conservation model rather than recognizing and supporting the existing practices and knowledge.

ACKNOWLEDGEMENT

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ANNEXES

ANNEX 1: PARTICIPANTS OF THE PROGRAM

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ANNEX 2: PRESENTATION SLIDES

Slide 1

Recognizing and supporting ICCAs: A Promising Complementary Approach to Biodiversity Conservation in Nepal

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Introduction to ICCAs

- **What is ICCA:**
 - According to IUCN “*ICCA is a natural and/or modified ecosystems, containing significant biodiversity values, ecological benefits and cultural values, voluntarily conserved by indigenous peoples and local communities, both sedentary and mobile, through customary laws or other effective means.*”
- **Essential features of ICCA:**
 - *Predominant role* of community in decision-making;
 - *Well established and Functioning institutional mechanism* for conservation and management (customary/statutory, traditional/new)
 - Achieving or having potential to *achieve conservation* of biodiversity (protection and/or sustainable use)

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International PA Policy discourses

- **World Park Congress, 2003: Durban Action Plan [10 outcomes and 14 targets]**
 - **Outcome 5:** The Rights of Indigenous Peoples, Mobile peoples and Local Communities Recognized and Guaranteed in Relation to Natural Resources and Biodiversity Conservation
 - **Key Target 8:** all existing and future protected areas shall be managed and established in full compliance with the rights of indigenous peoples, mobile peoples and local communities.
 - **Key Target 10:** participatory mechanisms for the restitution of indigenous peoples' traditional lands and territories that were incorporated in protected areas without their free and informed consent established and implemented
 - **Outcome 8:** Improved forms of governance, recognising both traditional forms and innovative approaches of great potential value for conservation, implemented

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Cont....

- **CBD COP 7 (Program of Works on Protected Areas-PoWPA) 2004:** 16 goals, divided across 4 programme elements
 - **Programme Element 2:** Governance, Participation, Equity and Benefit Sharing
 - **Goal 2.1:** To promote equity and benefit-sharing
 - **Goal 2.2:** To enhance and secure involvement of indigenous and local communities and relevant stakeholders
 - **Programme Element 3:** Enabling Activities
 - **Goal 3.1:** To provide an enabling policy, institutional and socio-economic environment for protected areas

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- **IUCN Protected Area Categories and Governance Matrix 2008: after 5 years long global studies identified four types of governance categories-**
 - Government managed protected area
 - Co-managed Protected Areas
 - Private Protected Areas
 - Indigenous and community Conserved Protected Areas (ICCAs)

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Governance type	A. Government Managed Protected Areas	B. Co-managed Protected Areas (shared Governance)	C. Private Protected Areas	D. Indigenous & Community Conserved Areas (ICCAs)
Category 1: Wilderness				
Category 2: National Park				
Category 3: Natural Monument				
Category 4: Natural Monument				
Category 5: Natural Monument				
Category 6: Protected Landscape/Seascape				
Category 7: Managed Reserve				

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- **CBD COP 10 in Nagoya, Japan in 2010:** 5 strategic goals and 20 targets
 - **Strategic Goal C: Improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity**
 - **Target 11: By 2020, at least 17 per cent of terrestrial and inland water, and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscape and seascapes.**
 - **Strategic Goal D: Enhance the benefits to all from biodiversity and ecosystem services.**
 - **Target 14: By 2020, ecosystems that provide essential services, including services related to water, and contribute to health, livelihoods and well-being, are restored and safeguarded, taking into account the needs of women, indigenous and local communities, and the poor and vulnerable.**
 - **Strategic Goal E: Enhance implementation through participatory planning, knowledge management and capacity building**
 - **Target 17: By 2015 each Party has developed, adopted as a policy instrument, and has commenced implementing an effective, participatory and updated national biodiversity strategy and action plan.**
 - **Target 18: By 2020, the traditional knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biodiversity, and their customary use of biological resources, are respected, subject to national legislation and relevant international obligations, and fully integrated and reflected in the implementation of the Convention with the full and effective participation of indigenous and local communities, at all relevant levels.**

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Cont....

- **CBD COP 11 in India 2012:** Recognized the relevance of promoting ICCAs to meet Aichi Targets
 - **ICCA related programs and priorities have been re-emphasized.**
 - Strong Global networking of ICCAs
 - Proactive roles by ICCA members and advocates
 - Number of side events organized
 - A colloquium on ICCA is organized by CBD secretariat

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Legal Foundation for the Rights of IPs

- **The Convention on Indigenous and Tribal Peoples, 1989 (known as ILO 169):** consists of total 44 articles-Recognized the rights of IPs on traditional land, territory and natural resources (Nepal has ratified it on 2007)
 - Article 14 (1): The rights of **ownership and possession** of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.
 - Article 14 (2): Governments shall **take steps as necessary** to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.
 - Article 15 (1): The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

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Cont....

- **United Nations Declaration of Indigenous Peoples (UNDRIP):** it consists of 46 articles- provisioned the rights of IPs on traditional land, territory and natural resource
 - **Article 26 (1):** Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
 - **Article 26 (2):** Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
 - **Article 26 (3):** States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.
 - **Article 27:** States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

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What came out of the International PA policy discourses?

- Increasing realization and recognition of the role of IP and LC's customary practices in biodiversity conservation;
- Recognition of the link between biological diversity and cultural diversity;
- Increased realizations and recognitions of the link between governance and biodiversity conservation (equitable benefits sharing, full and active participation, free and prior informed consent rights).

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Policy Initiatives that Appreciate and Promote ICCAs

- **Policies:**
 - National Wetland Policy, 2003
 - Nepal Conservation Strategy, 1988(2045)
 - Biodiversity Strategy, 2002
 - Others.....
- **Acts:**
 - National Park and Wildlife Conservation (NPWC) Act 1973 (2029 B.S)
 - Forest Act 1993 (2050 B.S) and Forest Regulation 1995 (2051 B.S)
 - Environment Protection Act, 1997(2053)
 - Others.....
- **Regulations and Guidelines:**
 - Himalayan National Park Regulation 1979
 - Buffer Zone management Regulation 1996 (2052 BS) and Buffer Zone Guidelines, 1999:
 - Conservation Area Management (CAM) Regulation, 1996(2053):
 - Kanchenjunga Conservation Area Management Regulation, 2005
 - Others.....

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Strengths and Weaknesses of existing policies and legislations on PAs

Strengths:

- Rights to access resources on the basis of management plans
- Formation of user's group by the local peoples;
- Benefit sharing (such as 30-50% income to the local peoples)
- Compensation guidelines and its implementation (but limited)
- Realization of the importance of customary practices in recent policies

Need to be improved:

- Legal recognition and support of indigenous/local people's customary institutions and practices;
- Respect and reward to the IP and LC for their contribution in the biodiversity conservation through their customary practices;
- Adopt good practices and provisions in the international conventions and agreements;

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Relevance of ICCAs in Nepal

- Hundreds of existing practices;
- Existence of high cultural diversities;
- Contributes in conserving significant biodiversity (in forests, wetlands, landscapes, wildlife corridors, PA connectivity);
- For enhancing & forging community stewardship, empowerment, collective action and their institutions,
- Sustaining and revitalizing cultural relation and values in in biodiversity conservation;
- Legitimizes existing practices;
- International obligations;

What may be way forward?

- Are ICCAs relevant in Nepal?
- If they are relevant what can we do?
 - It is time to revise existing policies and legislations?
 - If yes, what aspects is most important to be addressed? And if not why?
 - Do we need to initiate ICCA specific laws in our country? If so, how can we do it? Of not, why?

ANNEX 3: SOME PHOTOS OF THE INTERACTION PROGRAM



Dr. Maheshwor Dhakal sharing about his personal reflection about CBD COP 11 in Hyderabad



Jailab Rai presenting his paper



Jailab Rai presenting his paper



Participants listening presentation



Participants discussing