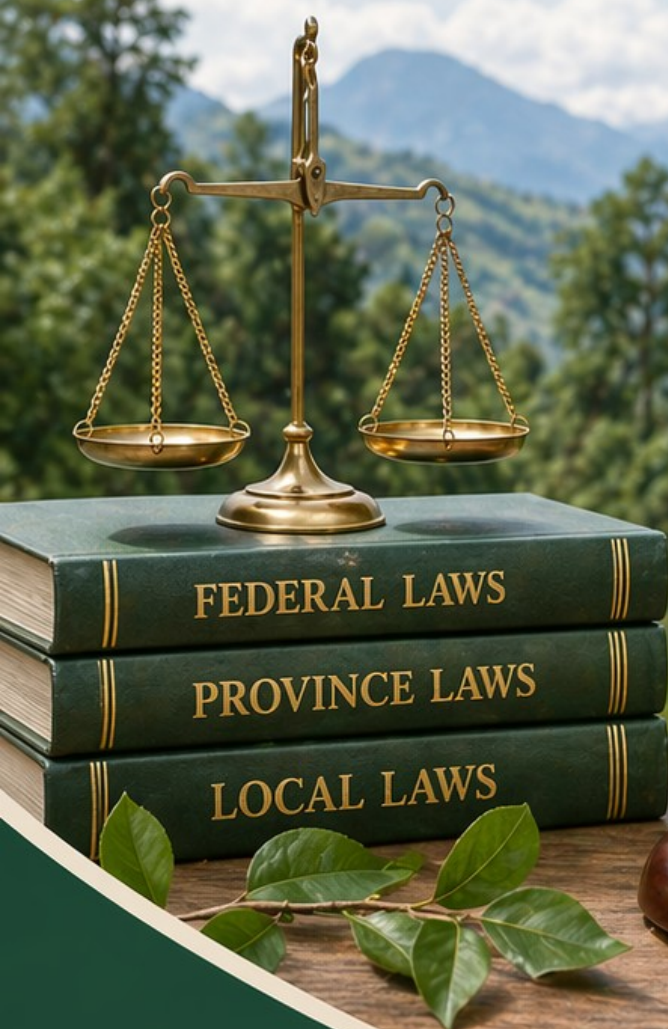


AN ANALYTICAL STUDY ON **FOREST AND ENVIRONMENTAL LAWS** ENACTED BY FEDERAL, PROVINCE AND LOCAL LEVEL



Government of Bagmati Province
Ministry of forest and environment
Hetauda, Nepal

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Executive Summary

Nepal's transition to federalism, initiated by the Constitution of 2015, has significantly reshaped the country's forest and environmental governance. This study, commissioned by the Ministry of Forests and Environment, Bagmati Province, critically analyzes forest and environmental laws enacted at federal, provincial, and local levels to assess their coherence, implementation capacity, and alignment with constitutional mandates and international obligations.

The study identifies that while federal and provincial legislations such as the Forest Act, 2019 and Environment Protection Act, 2019 provide foundational frameworks, they lack operational clarity in several key areas. These include the definition of forest categories, jurisdictional roles in wetland management, integration of waste management in forest areas, and mechanisms for climate financing. Gaps and overlaps persist particularly in delineating authority across government levels, leading to ambiguities in implementation. For instance, although local governments are constitutionally empowered to manage urban forests and waste, the absence of corresponding legal mandates at federal and provincial levels undermines their effectiveness.

Critical areas analyzed include forest boundary demarcation, climate change mitigation, and the rights of Indigenous Peoples. While laws recognize the need for equitable benefit sharing and community-based governance, they often fall short in defining ownership rights (e.g., carbon ownership) and ensuring inclusive representation within user groups. The legal framework inadequately safeguards Indigenous Peoples' traditional rights and practices, despite Nepal's ratification of international instruments like ILO-169 and UNDRIP.

Comparative analysis of Bagmati Province's legal instruments with those of Lumbini Province highlights variations in legal maturity, with Lumbini demonstrating more comprehensive provisions on collaborative forest management, climate change governance, and institutional coordination. At the local level, some municipalities have made proactive legal and programmatic strides, especially in waste and wetland management, yet these efforts remain fragmented in the absence of harmonized national standards.

To resolve these gaps, the study recommends: (1) formalizing definitions and roles across government tiers; (2) establishing clear frameworks for REDD+ and carbon finance; (3) recognizing traditional forest rights and ensuring Free, Prior and Informed Consent (FPIC) for Indigenous communities; (4) amending Bagmati's legal provisions to align with federal laws; and (5) institutionalizing multi-level coordination mechanisms for effective environmental governance.

Ultimately, the study calls for legislative harmonization, strengthened institutional mandates, and inclusive policy formulation to foster resilient, participatory, and equitable forest and environmental governance in Nepal's federal context.

1. Introduction

1.1. Context of the study

Nepal's transition to a federal system of governance through the 2015 Constitution has significantly restructured the legislative and administrative frameworks governing forest resources and environmental management. This restructuring has necessitated the enactment of new laws and revision of existing ones across the three tiers of government: federal, provincial, and local. While this devolution of power aims to enhance governance efficiency and responsiveness to local needs, it has also created complexities in legal frameworks, jurisdictional boundaries, and implementation mechanisms.

The Ministry of Forests and Environment, Bagmati Province, has commissioned this analytical study to examine the forest and environmental laws enacted by the federal, provincial, and local governments. This study comes at a critical timing when Nepal is striving to balance its development aspirations with environmental sustainability commitments, while also navigating the complexities of multi-level governance. The findings of this study will provide valuable insights into the current legal landscape, help identify inconsistencies and gaps, and offer recommendations for harmonizing the legal frameworks across all levels of government.

1.2. Rationale

The fundamental purpose of this study is to conduct a comprehensive analytical study of forest and environmental laws enacted at the federal, provincial, and local levels in Nepal, with a particular focus on identifying synergies, conflicts, overlaps, and gaps within these legal frameworks. The study emerges from the recognition that the transition to federalism has created a complex legal landscape with potential inconsistencies that may slow effective environmental governance and sustainable forest management.

The Constitution of Nepal 2015 delineates the environmental and forest management responsibilities across the three tiers of government. However, the practical implementation of these constitutional provisions through legislation requires careful analysis to ensure coherence, effectiveness, and alignment with national priorities and international commitments. It is of utmost urge to examine how federal laws such as the Forest Act 2019, Environment Protection Act 2019, and National Parks and Wildlife Conservation Act 1973 (with amendments) interact with provincial forest acts and local level regulations.

The study needs to specifically focus on the forest and environmental laws of Bagmati Province alongside at least one other province for comparative analysis. Additionally, the legal frameworks of several individual local governments within Bagmati Province have to be examined to understand the local-level legislative responses to environmental management and forest governance. The analysis needs to extend beyond mere textual

comparison to include assessment of implementation mechanisms, institutional capacities, and practical challenges in enforcement.

Through this comprehensive analysis, the study aims to contribute to the ongoing efforts to strengthen Nepal's legal and institutional frameworks for environmental governance in the federal context. The findings will serve as a valuable resource for policymakers, legislators, and implementing agencies seeking to harmonize approaches to forest management, biodiversity conservation, climate resilience, and environmental governance across all levels of government.

1.3. Objectives of the Study

The overall objective of this study is to conduct an analytical assessment of forest and environmental laws enacted by federal, provincial, and local governments in Nepal. This broad aim encompasses several specific objectives:

- a) List, examine the structure, scope, and enforcement mechanisms of forest and environmental laws at the federal, provincial, and local levels.
- b) Identify key similarities, differences, and areas of overlap.
- c) Highlight gaps and inconsistencies in legal frameworks and enforcement practices.
- d) Provide recommendations for alignment and enhancement of legal frameworks across all levels.

Through achieving these specific objectives, the study will contribute to the broader goal of strengthening Nepal's legal and institutional frameworks for environmental governance, ensuring that federalization enhances rather than complicates the nation's ability to protect its natural resources and address environmental challenges.

1.4. Methodological Framework

This study has employed a robust methodological framework to ensure comprehensive analysis of forest and environmental laws at federal, provincial, and local levels. The methodology has been designed to facilitate systematic data collection, rigorous analysis, and meaningful stakeholder engagement throughout the research process. The following methodological components have been utilized:

- **Legal Textual Analysis:** We conducted in-depth textual analysis of forest and environmental laws, regulations, policies, and guidelines enacted at all three governance levels. This analysis involved systematic review of the legal instruments' structure, scope, substantive provisions, procedural mechanisms, and enforcement frameworks. We employed content analysis technique to identify key themes, patterns, and variations across different legal texts. This approach helped in understanding the intent, focus, and comprehensiveness of these legal instruments in addressing environmental challenges and forest management issues.

- **Comparative Legal Analysis:** A structured comparative framework was employed to analyze similarities, differences, overlaps, and gaps among laws at different governance levels. This comparative analysis examined jurisdictional boundaries, substantive provisions, procedural requirements, institutional arrangements, and enforcement mechanisms. The comparison helped to identify areas of coherence and contradiction, facilitating recommendations for harmonization. The analysis was guided by established principles of environmental law, including the precautionary principle, polluter pays principle, intergenerational equity, and sustainable development.
- **Institutional Analysis:** We examined the institutional arrangements established by various laws for implementation, monitoring, and enforcement. This analysis focused on institutional mandates, powers, responsibilities, coordination mechanisms, and resource allocations. We utilized institutional mapping techniques to analyze the complex web of institutional actors involved in environmental governance across different levels. This approach helped to identify potential institutional overlaps, gaps, and conflicts that may affect effective implementation of environmental laws.
- **Stakeholder Consultation:** Structured and semi-structured interviews were conducted with key stakeholders, including government officials, legal experts, environmental specialists, civil society representatives, and community members. Focus group discussions were organized to gather collective insights on the effectiveness, challenges, and opportunities in the implementation of environmental laws. Consultative workshops were held at provincial and local levels to validate preliminary findings and gather additional inputs. These consultations provided practical insights into the real-world implementation challenges and effectiveness of legal provisions beyond their textual content.
- **Legal Gap Analysis:** A systematic framework was employed to identify gaps in the current legal landscape. This analysis considered gaps in substantive coverage (thematic areas not adequately addressed), procedural mechanisms (insufficient processes for implementation), institutional arrangements (inadequate structures for enforcement), and coordination frameworks (limited mechanisms for multi-level governance). The analysis also considered emerging issues that may require new legal frameworks or amendments to existing ones.

Through this comprehensive methodological framework, we ensured rigorous analysis of the complex legal landscape governing forest and environmental management in Nepal's federal context. The mixed-methods approach provided both depth and breadth in understanding, facilitating evidence-based recommendations for enhancing legal frameworks and their implementation across all governance levels.

2. Domestic and International Legal Framework

2.1. Domestic Legal Framework

2.1.1. Constitutional Framework

Nepal's Constitution of 2015 provides a comprehensive and progressive legal foundation for environmental protection and forest governance. It recognizes environmental protection not merely as a policy objective but as a **fundamental right**, while also placing explicit responsibilities on the State to ensure the sustainable management of forests and other natural resources. The constitutional provisions reflect a commitment to integrating environmental concerns into the broader goals of sustainable development, social justice, and intergenerational equity.

The federal structure introduced by the Constitution ensures the distribution of environmental and forest-related responsibilities among the three tiers of government: federal, provincial, and local. This devolution of authority is detailed in schedule 5-9 of the Constitution, which delineate the jurisdiction of each level of government.

Fundamental Rights – Article 30: Right to Clean Environment

Article 30 serves as the heart of the constitutional framework, which enshrines the **right to a clean and healthy environment** as a legally enforceable fundamental right. Every person in Nepal is entitled to live in an environment that does not harm their health or well-being. The article provides a mechanism for individuals to seek compensation for environmental harm, thereby institutionalizing the “polluter pays” principle. This means polluter, whether state or non-state actors, can be held legally accountable for environmental degradation. In doing so, the Constitution integrates key principles of international environmental law, including sustainable development and environmental justice. Notably, Nepal and the Maldives are among the few countries in South Asia to explicitly recognize the right to a healthy environment as a constitutional right.

In addition to Article 30, the Constitution embeds environmental values through other provisions. For instance, **Article 35** guarantees the right to clean drinking water and hygiene, which reinforces environmental and public health objectives. **Article 36** enshrines the right to food sovereignty, which is closely linked to environmental conservation and sustainable use of land and water resources. Similarly, **Article 44** ensures consumer rights to quality goods and services, indirectly contributing to the regulation of pollution and unsustainable production practices.

The Constitution places a solemn duty on both state instruments and individual person to protect and improve the natural environment. Furthermore, the High Courts (Article 144) and the Supreme Court (Article 133) are empowered to issue directives, orders, and writs for environmental protection and promotion. The Directive Principles, Policies, and

Responsibilities of the State further detail policies for the distribution, conservation, management, and use of natural resources. The establishment of the National Natural Resources and Fiscal Commission underscores this commitment to sustainable resource management.

Directive Principles and State Policies – Part 4

The **Directive Principles and State Policies** under **Part 4 of the Constitution** further strengthen the commitment to environmental and forest governance. Although not justiciable, these principles provide essential guidance for legislation and policy-making. **Article 50** emphasizes a policy direction that promotes human development while maintaining environmental balance. It advocates for clean energy, sustainable development, and environmentally friendly infrastructure planning, especially in response to climate change.

More specifically, **Article 51 (g)** outlines state policies aimed at the scientific, sustainable, and equitable use of forests, biodiversity, land, and water. It obligates the State to ensure that the benefits derived from natural resources are equitably distributed, to minimize the adverse environmental impacts of infrastructure and industrial development, and to develop renewable energy sources. It also directs the State to strengthen the resilience of communities, especially marginalized and indigenous groups, by involving them in environmental decision-making processes. These provisions reflect the State's long-term vision of ecological stewardship and inclusive development.

Division of Environmental Responsibilities Across Levels of Government

Nepal's federal system provides for a clear division of environmental responsibilities among the federal, provincial, and local governments, with corresponding mandates outlined in the Constitution's schedules.

1. Federal Jurisdiction – Schedule 5

The federal government is responsible for setting national environmental policies and enforcing regulations that have national and international implications. This includes the management of national parks and wildlife reserves, formulation of international environmental treaties, regulation of transboundary water resources, and development of national environmental standards such as Environmental Impact Assessment (EIA) guidelines. The federal government also plays a crucial role in harmonizing domestic laws with global environmental norms, including climate change obligations and biodiversity conservation.

2. Provincial Jurisdiction – Schedule 6

Provincial governments are empowered to manage environmental and natural resource issues within their territory. This includes the conservation of forests, wildlife, and

watersheds, and the enforcement of environmental standards in development projects operating at the provincial level. Provinces are also tasked with coordinating with local governments to ensure effective law enforcement and environmental governance. They implement localized climate adaptation programs and disaster risk reduction strategies in accordance with their unique ecological and socio-economic contexts.

3. Local Jurisdiction – Schedule 8

Local governments are assigned direct responsibility for managing the environment within their jurisdictions. This includes the oversight of local forests, water sources, waste management, and pollution control. Local governments are also tasked with conducting Initial Environmental Examinations (IEEs) for small-scale projects and are encouraged to raise environmental awareness and enforce local regulations. Community-based resource management practices, such as the operation of community forests, are also facilitated at the local level, enabling active public participation in environmental governance.

2.1.2. Domestic Legislations

Environment Protection Act, 2019 and Environment Protection Regulations, 2020

The Environment Protection Act is Nepal's primary environmental law, establishing the right to a clean and healthy environment, requiring environmental assessments, regulating pollution and hazardous substances, and addressing climate change. It empowers authorities to establish Environmental Funds and designate protected areas. The accompanying Environment Protection Regulations provide detailed procedural guidelines for implementing the Act, focusing on environmental impact assessments, public participation, enforcement mechanisms, and compliance monitoring to ensure effective environmental governance.

Forest Act, 2019 and Forest Regulation, 2020

The Forest Act governs the sustainable management and conservation of forests, integrating community forestry principles and climate change considerations. It promotes local participation in forest governance and sustainable utilization of forest resources. The Forest Regulation supplements the Act by providing detailed rules on forest management practices, community forest operations, benefit-sharing, and conservation strategies, ensuring clarity and practical enforcement of the law.

National Parks and Wildlife Conservation Act, 1973 and National Parks and Wildlife Conservation Regulation, 1974

This Act establishes the legal framework for the protection of wildlife and the establishment and management of national parks and wildlife reserves in Nepal. It aims to conserve biodiversity and natural habitats. The corresponding Regulation outlines the administrative procedures for park and reserve management, including protection of species, anti-poaching measures, and enforcement protocols to maintain ecological integrity.

Soil Conservation and Watershed Management Act, 1982 and Soil Conservation and Watershed Management Regulation, 1983

This Act focuses on preventing soil erosion and promoting sustainable watershed management to protect land and water resources. The accompanying Regulation details the implementation mechanisms for soil conservation programs, watershed rehabilitation, and sustainable land use practices aimed at ecological restoration and disaster risk reduction.

Solid Waste Management Rule, 2013

This Rule provides regulations for the proper management of solid waste to prevent environmental pollution and promote sustainability, ensuring effective local-level waste disposal and recycling.

Local Government Operation Act, 2017

This Act assigns environmental conservation as a shared responsibility across all three tiers of government—federal, provincial, and local. It empowers local governments with authority to manage and protect their natural resources, enforce environmental regulations, and promote sustainable development within their jurisdictions. By decentralizing environmental governance, the Act ensures that local bodies actively participate in forest management, pollution control, waste management, and environmental awareness, fostering community involvement and localized solutions to environmental challenges.

Muluki Criminal Code

The Muluki Criminal Code of Nepal contains provisions that address offenses related to environmental pollution and the protection of public health. It criminalizes acts such as the illegal discharge of pollutants, destruction of natural resources, and other environmentally harmful behaviors that threaten ecosystems and human well-being. The Code prescribes fines and imprisonment for offenders, thereby reinforcing environmental protection through penal sanctions. These provisions serve as a deterrent against environmental crimes and support the enforcement of Nepal's broader environmental governance framework.

2.2. International Legal Framework for Forest and Environment Governance

Complementing this robust constitutional framework is Nepal's commitment to several **international treaties and conventions**, which have further shaped domestic forest and environmental governance.

Convention on Biological Diversity (CBD)

The Convention on Biological Diversity, adopted in 1992, promotes the conservation and sustainable use of biological resources. Nepal, as a signatory, is committed to developing national biodiversity strategies and integrating biodiversity considerations into forestry, agriculture, and land-use policies. The CBD obliges Nepal to identify ecologically important

habitats, monitor threats to biodiversity, and establish protected areas. It emphasizes in-situ conservation, particularly of forest ecosystems, and recognizes the knowledge and practices of indigenous communities. The Convention also stresses the importance of ensuring that the use of biological resources is sustainable and encourages public participation in forest management. Environmental impact assessments are mandated under the CBD to preemptively address threats to biodiversity.

United Nations Framework Convention on Climate Change (UNFCCC)

Nepal is also a signatory to the United Nations Framework Convention on Climate Change (UNFCCC), which provides a global framework for combating climate change. While the principle of "common but differentiated responsibilities" places more obligations on developed countries, Nepal, as a developing country, has undertaken substantial efforts toward low-carbon development. These include formulating national adaptation plans, implementing climate-smart agriculture, and promoting forest conservation as part of its climate mitigation strategies. The Convention supports Nepal's efforts through climate finance, capacity-building, and access to clean technology.

Paris Agreement

In alignment with the UNFCCC, Nepal ratified the Paris Agreement in 2016 and has committed to achieving net-zero carbon emissions by 2045. Despite contributing a tiny fraction of global emissions (approximately 0.027%), Nepal is among the most vulnerable countries to climate change impacts such as glacial lake outbursts, floods, and landslides. To meet its obligations, Nepal has submitted its **Nationally Determined Contributions (NDCs)**, which outline both unconditional and conditional targets related to emissions reduction, reforestation, and adaptation. Implementation includes robust monitoring systems and community-led initiatives such as **Local Adaptation Plans of Action (LAPAs)**, which integrate forest management and ecosystem-based adaptation at the grassroots level.

Ramsar Convention on Wetlands

The Ramsar Convention outlines the international obligations for wetland conservation. Nepal, as a party, is committed to designating and protecting wetlands of international importance (Ramsar Sites), integrating wetland conservation into national planning, and promoting wise use of all wetlands. The Convention emphasizes ecological character maintenance, community involvement, and public awareness, particularly in ecologically sensitive areas.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

Earlier, in 1975, Nepal became a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which regulates international trade in endangered wildlife and plants to prevent over-exploitation. Nepal is responsible for

enforcing regulations controlling the trade of species listed under CITES, preventing illegal trafficking, and protecting forest habitats that serve as homes for many of these vulnerable species. This helps preserve biodiversity and maintain forest ecosystem integrity.

United Nations Convention to Combat Desertification (UNCCD)

Nepal ratified the United Nations Convention to Combat Desertification (UNCCD) in 1996, which addresses land degradation and desertification—a critical concern given Nepal’s mountainous terrain. Nepal is tasked with implementing sustainable land management practices to restore degraded areas, prevent soil erosion, and integrate desertification control into forest and watershed management programs. This further supports the health of forest ecosystems and soil conservation, which are vital for environmental sustainability.

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal

In 1996, Nepal also acceded to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, committing to the environmentally sound management of hazardous wastes. This treaty helps Nepal prevent pollution risks that could adversely affect forest and environmental health, requiring national regulations on the safe handling and disposal of hazardous substances

International Tropical Timber Agreement (ITTA)

Nepal became a signatory to the International Tropical Timber Agreement (ITTA) in 1983. This agreement promotes the sustainable management and conservation of tropical forests by fostering cooperation between timber-producing and timber-consuming countries. Nepal’s responsibilities under the ITTA include implementing sustainable forest management practices, promoting reforestation and afforestation, and sharing data and expertise on tropical timber to ensure that forest resources are harvested without compromising biodiversity or ecosystem health.

Convention on the Conservation of Migratory Species of Wild Animals (CMS), 1979

Nepal is a party to the Convention on the Conservation of Migratory Species of Wild Animals (CMS), adopted in 1979. This international treaty focuses on protecting migratory species that cross national borders during their life cycles. Nepal’s commitments under CMS include cooperating with other countries to conserve these species and their habitats, implementing measures to prevent threats to migratory animals, and promoting research and monitoring efforts. The convention emphasizes transboundary collaboration to ensure the survival and sustainable management of migratory wildlife populations.

World Heritage Convention, 1972

Nepal is also a signatory to the World Heritage Convention, adopted in 1972, which aims to identify and protect cultural and natural heritage sites of outstanding universal value. Under

this convention, Nepal is responsible for safeguarding its designated World Heritage Sites, maintaining their integrity and authenticity, and promoting their conservation. The convention encourages Nepal to foster international cooperation, enhance public awareness, and mobilize resources for the preservation of these invaluable heritage sites for current and future generations.

Collectively, Nepal's commitments under these international instruments impose a range of responsibilities, from protecting biodiversity and managing forests sustainably to combating climate change, preventing land degradation, and regulating hazardous waste. These international obligations have been integrated into Nepal's national constitution and legal framework, reinforcing the country's dedication to environmental protection and forest governance. However, to fulfill these obligations effectively, Nepal must continue strengthening institutions, ensuring intergovernmental coordination, and fostering active participation by local communities and indigenous peoples.

3. Analysis of Current Legal Framework and Proposed Amendments

3.1. Clarifying Definitions

The Forest Act, 2076, currently provides definitions for various forest categories, such as "National Forest," "Government-managed Forest," "Community Forest," "Collaborative Forest," "Leasehold Forest," "Religious Forest," and "Private Forest." It also offers a general definition of "Forest" as an area partially or fully covered by trees or bushes. The Forest Regulation, 2079, further elaborates on terms pertinent to forest management, including "Operational Plan," "Annual Allowable Cut," and "Forest Enrichment (Silviculture) System."

However, a closer examination reveals that several crucial terms (like "Public Forest," "Urban Forest," "Sustainable Forest Management," and "Forest Conservation System"), while implicitly used or increasingly relevant in practice, lack explicit definitions within the definitional clause (Section 2) of the Forest Act, 2076. This ambiguity leads to inconsistent interpretations and implementation challenges, especially given that some local acts already define these terms. Formal inclusion of these definitions in Section 2 is crucial for clarity and effective governance.

Table 1 Proposed Amendments to Forest Act, 2076 - Definition Clause (Section 2)

Term	Proposed Definition	Rationale for Inclusion
Public Forest	Any forest area whose land ownership is vested in the Government of Nepal and is managed directly by government agencies or through designated entities for public benefit, excluding community, collaborative, leasehold, or religious forests.	Provides clear, overarching definition for state-owned/managed forests.
Urban Forest	Any forest or tree-covered area within municipal boundaries, including green spaces, parks, and roadside plantations, established and managed by local governments, either independently or in partnership with other entities, for environmental, aesthetic, recreational, and ecological benefits of urban populations.	Offers legal clarity for a growing category of forests in urban planning.
Sustainable Forest Management	The stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfill, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, and that does not cause damage to other ecosystems.	Provides a clear legal basis for all forest management practices, aligning with international best practices.
Forest Conservation System	The comprehensive set of legal, policy, and management frameworks, including protected areas, community-based conservation, and other measures, implemented to protect, maintain, restore, and enhance forest ecosystems, their biodiversity, and ecological services.	Offers a broader legal framework for various approaches to forest protection.

3.2. Strengthening National Forest Boundary Determination

The Forest Act, 2076, establishes a legal framework for the demarcation of national forest boundaries. Section 4 empowers the Government of Nepal (GoN) to determine these boundaries, including inter-provincial forests, while Section 5 grants the GoN the authority to acquire public or private land, along with any structures, if deemed necessary for forest protection, with compensation provided according to prevailing land acquisition laws. Section 6 further mandates the Divisional Forest Officer (DFO) to request the Land Revenue Office and local levels to cancel land revenue and tax records for acquired private land within seven days. The Forest Regulation, 2079, Section 5, supplements this by requiring the GoN to publish national forest boundaries in the Nepal Gazette and tasks the Forest Research and Training Center with preparing a canopy map.

Despite these legal provisions, a **critical challenge** lies in their practical implementation. It has been observed that Sections 4, 5, and 6 of the existing Act are not implemented in practice, primarily due to a lack of allocated budget, rendering their execution currently unfeasible. This indicates a significant disconnect between legislative intent and practical capacity. The complexity of land acquisition, coupled with historical issues of land dispossession of Indigenous Peoples, suggests that boundary demarcation and land acquisition are inherently resource-intensive and politically sensitive processes. Furthermore, the issue of "methodological inconsistency of community-based and national forest monitoring" could also stem from unclear or un-demarcated boundaries, hindering effective forest governance.

To ensure robust and implementable boundary determination mechanisms, it is crucial to **incorporate practical elements**. The suggestion to visibly use "local physical features such as paths, pillars, rivers/streams" is vital for on-the-ground identification and clarity. Complementing this with "proper mapping" and "plot numbers assigned" is essential for legal certainty and to prevent future disputes, enhancing the utility of the "canopy map" mentioned in the Regulation. The concept of a **"Green Ownership Certificate (*Harit Praman Purja*)"** represents a formal, recognized document for forest land tenure, which is currently lacking. While existing legal texts do not define "*Harit Praman Purja*", its formalization would significantly improve land tenure security and accountability.

The stated non-implementation of boundary determination sections due to a lack of budget reveals a **critical bottleneck**. This implies that future amendments must include mechanisms for securing and allocating funds for such foundational activities. The historical context of Indigenous Peoples' land dispossession is particularly relevant here; unclear or un-demarcated boundaries perpetuate historical injustices and create ongoing conflicts. Proper boundary demarcation, especially involving land acquisition, is highly sensitive and requires significant resources and political will to avoid further marginalization or "elite capture". Without clear boundaries, effective forest management, including monitoring, law

enforcement, and resource utilization, becomes challenging, leading to inconsistencies. The observation that implementation is "not currently feasible" points to a systemic issue that requires a holistic approach addressing financial, social, and technical aspects. Table 2 summarizes the current challenges and proposes solutions for national forest boundary determination:

Table 2 Current Challenges and Proposed Solutions for National Forest Boundary Determination

Challenge	Relevant Sections of Act/Regulation	Evidence/Observation	Proposed Solution
Lack of implementation of boundary demarcation	Forest Act, 2076, Sections 4, 5, 6	"Sections 4, 5, and 6 of the existing Act are not implemented in practice."	Amend the Act to explicitly mandate the use of visible physical features (paths, pillars, rivers/streams) for ground-level demarcation, alongside digital mapping (GIS) and plot numbering.
No budget allocated for implementation	Forest Act, 2076, Sections 4, 5, 6	"no budget is allocated for them. Implementation is not currently feasible."	Mandate dedicated budget allocation for the implementation of boundary demarcation and land acquisition processes, recognizing significant financial and human resource requirements.
Absence of clear forest land tenure document	Not explicitly addressed in Act/Regulation.	A "Green Ownership Certificate (Harit Praman Purja)" should be obtained. Existing law does not define "Harit Praman Purja".	Introduce a legal provision for the issuance of a "Harit Praman Purja" for national forest lands, formalizing forest tenure and improving accountability.
Potential for methodological inconsistency in monitoring	Not explicitly addressed.	"Methodological inconsistency of community-based and national forest monitoring will occur."	Establish a multi-stakeholder committee involving federal, provincial, and local government representatives, as well as local communities and Indigenous Peoples, to oversee and participate in the boundary determination process, ensuring equitable outcomes and consistent monitoring.
Historical land dispossession and elite capture risks	Forest Act, 2076, Section 5 (Land Acquisition)	Indigenous Peoples gradually lost rights due to discriminatory policies; continuously dispossessed; "elite capture" can exclude marginalized households.	Ensure participatory processes in land acquisition and boundary determination to address historical grievances and prevent further marginalization.

3.3. Comprehensive Wetland Management

Section 13 of the Forest Act, 2076, assigns responsibility for the "conservation, promotion, and management" of wetland areas within national forest regions to the Government of Nepal (GoN). It also permits the development of ecotourism in these areas "as prescribed." The Forest Regulation, 2079, Section 11, further elaborates on this by making the Divisional Forest Officer (DFO) responsible for wetland conservation and management, including water sources, ponds, lakes, and rivers. It mandates the DFO to prepare specific wetland management plans, identifying ecotourism potential, with approval from the Directorate and Ministry. The Regulation also states that wetlands managed by "consumer groups" must adhere to their approved action plans and allows DFOs to collaborate with local levels with Provincial Ministry consent.

A **significant challenge** arises from **jurisdictional ambiguities**. The Constitution assigns wetlands to the federal government, and the Forest Act places responsibility with the GoN. However, wetlands often fall within national forests, which are under provincial jurisdiction. This creates a multi-tiered governance structure that, without explicit coordination mechanisms in the federal Forest Act, can lead to overlaps, conflicts, or gaps in effective wetland conservation. Numerous local environmental acts, such as those from Bhaktapur, Likhu Tamakoshi, Panauti, Dhunibeshi, and Gosainkunda, define "Simsar" (wetland) and outline local responsibilities for their conservation and management, further highlighting this complex jurisdictional landscape.

While the Forest Regulation acknowledges Ramsar sites and requires specific management plans for them, the Forest Act itself lacks explicit provisions for integrating these international designations or formally recognizing the roles of Wetland Management Committees (WMCs), despite their establishment at the local level. The core issue is that while the Constitution assigns wetlands federally, the federal Forest Act's provision is too general and does not explicitly define the roles and coordination mechanisms for all three tiers of government. It focuses only on wetlands within national forests, leaving ambiguity for wetlands outside. This fragmentation risks ineffective conservation, as provincial and local efforts might be disjointed, leading to inefficient resource allocation or neglected areas. The proliferation of local acts defining and managing wetlands underscores the local recognition of wetland importance but also highlights the need for a harmonized national framework in the primary forest law to guide these local efforts. The current vagueness makes it difficult to pinpoint accountability when wetland degradation occurs due to jurisdictional disputes.

Table 3 provides an inter-governmental jurisdictional overview for wetland management:

Table 3 Inter-Governmental Jurisdictional Overview for Wetland Management

Aspect	Government Level	Specific Section/Provision	Key Observation/Gap/Overlap
Constitutional Assignment of Wetlands	Federal	Constitution of Nepal	Explicitly assigns wetlands under federal jurisdiction.
Federal Act Provision for Wetlands	Federal	Forest Act, 2076, Section 13(1)	States GoN (Federal) is responsible for conservation, promotion, and management of wetlands <i>within national forest regions</i> . This is a limited scope.
Federal Regulation Provision for Wetlands	Federal Provincial	Forest Regulation, 2079, Section 11	DFO (Provincial) responsible for wetland conservation, management plans (based on strategic plan in Rule 14), and ecotourism development. Allows DFO to collaborate with local levels with Provincial Ministry consent. Acknowledges Ramsar sites.
Local Act Provisions for Wetlands	Local	- Panauti, Section 2(१) - Dhunibeshi, Section 2(१) - Likhu Tamakoshi, Section 2(१) - Gosainkunda, Section 2(१) - Kathmandu, Section 2(१)	Many local acts define "Simsar" (wetland) and outline local responsibilities for conservation and management, indicating active local engagement and potential for jurisdictional overlap with federal/provincial mandates.
Observation	Federal Provincial Local		Notes constitutional assignment to federal, Forest Act to GoN, but wetlands fall within national forests (provincial jurisdiction). Calls for federal-provincial collaboration and further provisions. Mentions Ramsar sites and WMCs but notes lack of further provisions in Act.
Jurisdictional Ambiguity & Gaps	Federal Provincial Local	- Overlap in responsibilities - lack of explicit coordination mechanisms.	The federal Act's provision is too general, not explicitly defining roles and coordination for all three tiers, especially for wetlands outside national forests. This can lead to disjointed efforts and unclear accountability.

To address these issues, it is recommended to:

- **Define "Wetland" in Section 2 of the Forest Act:** Incorporate a comprehensive definition of "Wetland" directly into Section 2 of the Forest Act, 2076, similar to those

already present in local acts [Section 2(१), Section 2(२)], to provide foundational clarity.

- **Strengthen Section 13:** Amend Section 13 to explicitly outline the shared and distinct responsibilities of federal, provincial, and local governments for wetland management, particularly for those within and outside national forests. This should clarify how federal policy (e.g., Ramsar commitments) is implemented through provincial and local mechanisms.
- **Mandate Inter-Governmental Coordination:** Introduce provisions requiring formal coordination mechanisms, such as joint committees or shared action plans, between federal (Ministry of Forests and Environment), provincial (Provincial Ministry, DFO), and local governments (local levels, WMCs) for wetland conservation and management.
- **Recognize WMCs:** Explicitly recognize the role and legal standing of Wetland Management Committees (WMCs) in the Forest Act, empowering them to manage and conserve wetlands at the local level in collaboration with local governments and DFOs.
- **Budget Allocation for Wetlands:** Mandate specific budget lines for wetland conservation and management activities, ensuring adequate resources for implementation across all tiers of government.

3.4. Integrating Waste Management in Forest Areas

The Forest Act, 2076, and Forest Regulation, 2079, currently lack explicit sections or clauses dedicated to waste management within forest areas. This absence creates a significant regulatory vacuum, allowing widespread environmental degradation, despite strong local legislative efforts and visible on-the-ground problems.

News reports provide compelling evidence of widespread waste dumping in Nepal's forests and rivers. For example, massive floods in the Budhi Rapti river carried "huge quantity of solid waste, including plastics and glass bottles," depositing them in Chitwan National Park, a major tourist spot. This poses a severe threat to wildlife, birds, and tourism, with conservation officers highlighting the lack of resources for cleanup and the non-compliance of local units in stopping haphazard disposal. Similarly, local units in Chitwan are reportedly using forests and rivers to dump waste due to a lack of permanent landfill sites, with Bharatpur Metropolitan City dumping 65 tons daily on Narayani River banks for nine years. Similar issues of forest degradation due to waste dumping are reported in Koshi Province and Pathari-Shanishchare Municipality in Morang, where waste is dumped in local forests, causing health hazards and environmental degradation due to nightly burning. These problems are exacerbated by a lack of monitoring mechanisms and local units' disregard for requests to stop dumping.

In contrast to the federal Forest Act's silence, many local environmental acts contain detailed provisions for waste management, indicating that local governments recognize and are attempting to address this issue. Bhaktapur Municipality's Act, for instance, explicitly lists offenses related to improper waste disposal, contaminated water leakage, and indiscriminate dumping of hazardous waste. It also prohibits the destruction of trees in green and riverine areas. Panauti Municipality's Act broadly defines "waste" and outlines responsibilities for waste management, reduction, segregation, and disposal, including hazardous waste, and prohibits pollution. Dhunibeshi Municipality's Act and Likhu Tamakoshi Rural Municipality's Act have similar comprehensive sections on waste management, pollution control, and environmental protection. Notably, Marin Rural Municipality's Forest Act, 2081, explicitly states: "Waste shall not be disposed of in forest areas, rivers, streams, public lands, and other natural and cultural heritage areas within this rural municipality". Pokhara Metropolitan City is also implementing proactive "zero waste" initiatives, including household waste segregation, new landfill construction, recycling partnerships, and awareness campaigns.

This major disconnection: a widespread problem and robust local legislative responses, but federal forest law remaining silent, creates a regulatory vacuum. The absence of federal provisions in the Forest Act means there is no overarching legal framework to guide or enforce waste management in national forest areas, leading to uncoordinated and often ineffective local efforts. This vacuum directly contributes to the severe pollution of forest ecosystems, impacting biodiversity, water sources, and public health. While local governments are acting, their authority might be limited in national forest areas, creating a jurisdictional gap in effective enforcement. The federal Forest Act needs to step in, not just with a prohibition, but by establishing a framework that harmonizes with and supports local government efforts, ensuring a cohesive national strategy for protecting forest ecosystems from pollution.

Table 4 summarizes the waste management issues in forest areas and proposes legal interventions:

Table 4 Summary of Waste Management Issues in Forest Areas and Proposed Legal Interventions

Issue	Evidence/ Observation	Impact on Forest Ecosystems/ Communities	Current Local Legal Efforts (Examples)	Proposed Amendment to Federal Forest Act
Haphazard waste dumping in forests and rivers	• "huge quantity of garbage has piled up in the forest area." • "Waste disposal in forests is becoming a problem." • "All local units in Chitwan are reportedly using forests and rivers to dump their waste."	• Threat to wildlife, birds, tourism. • Forest degradation. • Accumulation of "small mountains" of waste.	• Marin Rural Municipality Forest Act, 2081: "Waste shall not be disposed of in forest areas, rivers, streams, public lands..."	Explicit Prohibition: Include a clear and explicit prohibition against dumping, burning, or otherwise disposing of any type of waste in national forest areas, including community forests, protected areas, and river systems within or adjacent to forests.
Pollution of forest/rivers and health hazards	• "garbage poses a threat to the local ecology." • "severe health hazards faced by residents... due to indiscriminate dumping... compounded by nightly fires."	• Negative impact on tourism. • Environmental degradation • Health risks.	• Bhaktapur Municipality Act : Lists offenses for improper waste disposal, contaminated water. • Panauti Municipality Act: Defines waste, outlines management responsibilities, prohibits pollution.	Responsibility and Coordination: Introduce provisions assigning responsibility for waste management in forest areas to relevant authorities (DFOs, local levels, CFUGs) and mandating coordination mechanisms (e.g., inter-governmental collaboration) to prevent and manage waste.
Lack of permanent landfill sites and monitoring	• "local units pay no heed to our request... no monitoring mechanism... none of the local units... have a permanent landfill site." • "no other option" for dumping.	• Continued haphazard disposal, exacerbating environmental damage.	• Pokhara Metropolitan City: Implementing "zero waste" initiatives, including new landfill construction, recycling partnerships, and awareness campaigns.	Enforcement and Penalties: Establish clear penalties for violations of waste disposal prohibitions in forest areas, empowering forest authorities to enforce these provisions. Prevention and Collection: Mandate development of waste prevention strategies for forest-adjacent communities/tourist areas and mechanisms for regular waste collection and appropriate disposal.

3.5. Enhancing Forest's Role in Climate Change Mitigation and Adaptation

Nepal's Forest Act, 2076 [Section 2(x)], acknowledges "Environmental services" to include "Carbon service." The Forest Regulation, 2079, Rule 14(2) further specifies that strategic plans for forest management should incorporate "carbon service and other environmental services." Rule 115 even details "Carbon trade benefits distribution," outlining percentages for fund management, forest management bodies/user groups, private forest owners, and forest-dependent households. The Forest Act, 2076 also touches upon the use and distribution of dividends from climate change adaptation, carbon storage, and emission mitigation as determined by the Government of Nepal.

Despite these existing provisions, significant gaps hinder Nepal's full engagement in climate action through its forests. While "Carbon service" is mentioned, explicit "carbon ownership" is not defined. This lack of clarity is a crucial barrier for Nepal's participation in international carbon markets, as legal definition of ownership is a foundational requirement for robust carbon finance. The Act also lacks detailed "rules for running programs like REDD+" (Reducing Emissions from Deforestation and Forest Degradation), which are essential for operationalizing such initiatives. Although Nepal has prepared a Readiness Plan Idea Note (RPIN) and Readiness Preparation Proposal (RPP) for REDD+, Indigenous Peoples have voiced concerns about ensuring their rights, customary practices, and traditional knowledge are recognized and respected by national REDD strategies, emphasizing the need for constitutional, legal, and administrative guarantees of ownership and control over natural resources. Without clear legal mandates, the risk of "elite capture" and inequitable distribution of benefits, despite national policies like the Climate Change Policy 2019 suggesting 80% climate finance for local communities, remains.

Furthermore, while the Local Adaptation Plans of Action (LAPA) primarily focus on human adaptation and vulnerable communities, often overlooking forests as a climate solution, the National Adaptation Plan (NAP) 2021 does list "forestry and biodiversity" among the key economic sectors vulnerable to climate change. This indicates a growing recognition at the policy level. However, the observation about a "major gap in public discourse" regarding forest vulnerability, where policies are often shaped by experts with limited public engagement, points to a lack of civic ownership of climate change solutions, which can undermine the effectiveness of any legal provisions. The federal Forest Act needs to provide the overarching legal framework to ensure these funds effectively reach forest ecosystems and communities, and that forest vulnerability is systematically addressed in plans.

Table 5 outlines key climate change provisions and proposed enhancements in the Forest Act:

Table 5 Key Climate Change Provisions and Proposed Enhancements in Forest Act

Current Provision (Act/Regulation Section)	User's Concern/ Identified Gap	Evidence/ Observation	Proposed Enhancement/ Amendment
"Carbon service" defined as environmental service [Section 2(x); Rule 14(2)]	Lack of explicit "carbon ownership" definition.	"it should clearly say who owns the carbon stored in forests, so Nepal can take part in international carbon markets."	Define Carbon Ownership: Amend the Forest Act to explicitly define "carbon ownership" in forests, clarifying rights and responsibilities for carbon sequestration and storage.
Carbon trade benefits distribution	Absence of detailed "rules for running programs like REDD+".	"It should also include rules for running programs like REDD+." - Indigenous Peoples' concerns about REDD+ and ownership/control over natural resources.	Integrate REDD+ and Climate Finance Mechanisms: Introduce a dedicated chapter/section outlining the legal framework for REDD+ and other climate finance mechanisms (e.g., carbon trading, payments for environmental services), including provisions for project development, implementation, monitoring, reporting, and verification (MRV).
LAPA focus on human adaptation	Gap in public discourse.	"LAPA... mainly focus on helping people adapt... forests often get overlooked... major gap in public discourse."	Integrate Climate Risk in Forest Management Plans: Mandate that all forest management plans incorporate climate risk assessments and include specific adaptation and mitigation strategies (e.g., climate-resilient species, water source protection, forest fire risk reduction). Local acts already show initiatives in this area. ¹
Equitable benefit sharing	Need for fair sharing of money earned from climate programs with local communities and forest user groups.	"make sure the money earned from climate programs is fairly shared.": - Climate Change Policy 2019 suggests 80% climate finance to local communities.	Mandate Equitable Benefit Sharing: Strengthen provisions for equitable benefit sharing from climate programs, ensuring a significant portion directly reaches local communities, Indigenous Peoples, and forest user groups, consistent with national policies and international principles. This should include mechanisms for fair distribution and transparent accounting.
General promotion of climate change adaptation/mitigation	Need for specific eco-friendly practices and public engagement.	"encourage eco-friendly practices like planting trees and protecting water sources." "Without public discussion and ownership, policies... are unlikely to bring real change."	Promote Eco-friendly Practices: Encourage and incentivize eco-friendly forest management practices that enhance carbon sequestration and climate resilience. Enhance Public Engagement: Include provisions for mandatory public consultation and engagement in development and implementation of forest-based climate change programs, ensuring local ownership.

3.6. Protecting Indigenous Peoples' Rights over Forests

The Forest Act, 2076, defines "Community Forest" as national forest transferred to a "user group", and Section 31 outlines the formation of these user groups for collective benefit. The Forest Regulation, 2079, Rule 15(1) states that forest management should be based on "local community's traditional knowledge, customary practices, community participation and good governance." Rule 42 further defines "Community Forest User Group" (CFUG).

However, Indigenous Peoples in Nepal face significant challenges regarding their rights over land, resources, and traditional practices. They have been "deprived of their rights over natural resources" and "always driven out of their ancestral villages." Specific examples include being unable to bury their dead in community forests and Kumale potters being denied access to forest clay, leading to "tension and conflict between community forest users and indigenous communities." Research strongly corroborates these challenges, indicating that Indigenous Peoples have "gradually lost their rights over their ancestral land and forest due to the discriminatory and impractical policies" that gave "no recognition to the customary laws, practices, traditional knowledge, skills and know-how". They have been "continuously dispossessed of and displaced from their lands, territories and resources in the course of State-building or in the name of development or conservation, including through militarization".

Despite Nepal's ratification of ILO-169 and UNDRIP, Indigenous Peoples continue to face "significant challenges to their rights, resources, and representation". They emphasize the need for "constitutional, legal and administrative guarantee of ownership and control over their water, land, forest and mineral resources". There is also a risk of "exclusion of certain IPs and LCs which can arise from elite capture" in project implementation, affecting marginalized households. Conflicts over sacred sites and traditional resource use for commercial projects are also documented.

The current legal framework's general provisions on "user groups" are insufficient to protect the distinct collective and individual rights of Indigenous Peoples, making them vulnerable to displacement and denial of traditional resource access. The lack of recognition for customary laws and traditional knowledge means valuable, time-tested sustainable practices are overlooked, leading to conflict and inefficient management. Despite ratifying international human rights instruments, the national legislation has not fully translated these commitments into enforceable rights, creating a disconnect between international obligations and domestic reality. The federal Act needs to move beyond general principles to mandate specific mechanisms for Indigenous representation, legal protection of traditional practices (e.g., for cultural sites, specific resources like clay), and Free, Prior, and Informed Consent (FPIC) for projects affecting their lands. Critically, local acts like Indrawati Rural Municipality's Local Forest Act, 2079 [Section 2(३), Section 10(2)], and Marin Rural Municipality's Forest Act, 2081 [Section 56(2), Section 57], already provide for inclusive

representation (e.g., minimum 50% women's representation in decision-making) and protection of traditional knowledge and livelihoods, offering valuable models for federal amendment.

Table 6 highlights indigenous rights challenges and proposes legislative solutions:

Table 6 Indigenous Rights Challenges and Proposed Legislative Solutions

Challenge	Evidence/Observation	Current Legal Context (Examples)	Proposed Amendment to Federal Forest Act
Deprivation of rights over natural resources (e.g., burial sites, clay access)	"Indigenous Peoples are being deprived of their rights over natural resources... cannot bury their dead... cannot enter forest to search for roots and bulbs... Kumale... not allowed to use forest clay."	Forest Regulation, 2079, Rule 15(1) mentions "traditional knowledge" in forest management.	Legal Protection of Traditional Knowledge and Practices: Introduce specific provisions to legally recognize and protect traditional knowledge, customary laws, and practices. Guarantee access to specific forest products essential for traditional livelihoods and cultural practices. Mandate that CFUG operational plans incorporate and respect Indigenous Peoples' traditional knowledge and practices.
Dispossession and displacement from ancestral lands/villages	"always driven out of their ancestral villages." "gradually lost their rights over their ancestral land and forest due to discriminatory... policies." "continuously dispossessed of and displaced... through militarization."	ILO-169, UNDRIP ratified by Nepal.	Free, Prior, and Informed Consent (FPIC): Legally require FPIC from Indigenous Peoples and local communities for any development projects, land-use changes, or resource extraction affecting their traditional lands and resources within forest areas. Addressing Historical Injustices: Establish a mechanism to review and address historical injustices related to land and forest dispossession.
Exclusion from CFUG benefits and decision-making; "elite capture"	"tension and conflict between community forest users and indigenous communities." ¹⁵ : Risk of "exclusion of certain IPs and LCs which can arise from elite capture."	Forest Act, 2076, Section 18, 31 defines "user group" but lacks specific Indigenous representation mandates.	Mandate Inclusive Representation in CFUGs: Amend the Forest Act to explicitly mandate proportional and inclusive representation of Indigenous Peoples, Dalits, women, and other marginalized groups within CFUGs and their executive committees,

Challenge	Evidence/Observation	Current Legal Context (Examples)	Proposed Amendment to Federal Forest Act
			ensuring meaningful participation. Local acts like Indrawati's [Section 2(३), Section 10(2)] and Marin's [Section 56(2), Section 57] provide models for this.
Lack of recognition of customary laws and traditional knowledge (TK)	"government policies gave no recognition to the customary laws, practices, traditional knowledge, skills and know-how."	Forest Regulation, 2079, Rule 15(1) mentions "traditional knowledge" but doesn't mandate its protection for specific uses.	Integration into Work Plans: Mandate that CFUG operational plans incorporate and respect Indigenous Peoples' traditional knowledge and practices, and provide for their specific resource needs.
Ongoing tension and conflict between CFUGs and Indigenous communities	"So, there is a degree of tension and conflict between community forest users and indigenous communities."	Lack of clear legal framework for resolving such specific conflicts.	Conflict Resolution: Introduce a specific conflict resolution mechanism within the Act to address disputes between CFUGs and Indigenous communities regarding traditional rights and resource access.

3.7. Clarifying Technical Assistance for Urban Forests

Section 38(1) of the Forest Act, 2076 appropriately empowers local levels to develop and manage urban forests within their jurisdiction, either independently or in partnership with institutions or community actors. This aligns with Schedule 8 of the Constitution of Nepal, which assigns local governments jurisdiction over forest management. Furthermore, Section 38(3) authorizes local governments to utilize forest products from such urban forests according to their own standards.

However, an inconsistency arises in Section 38(2), which states that "Division or Sub-Division Forest Offices under the provincial government must provide necessary technical assistance" for urban forest development. Section 86 of the Forest Regulation, 2079, further details urban forest development and management, requiring local levels to prepare management plans in coordination with the DFO and with Provincial Ministry consent. It also allows the Department (federal) to collaborate with local levels for urban forest development.

The ambiguity lies in whether this "necessary technical assistance" is obligatory upon request or subject to the discretion of the provincial authority. If this assistance is discretionary, local governments, particularly smaller municipalities with limited internal technical expertise, might face significant challenges in effectively planning, implementing, and managing urban forests. This dependency could hinder the constitutional mandate for

local levels to manage urban forests, undermining their autonomy in practice. This could lead to uneven urban forest development across the country, as less resource-rich local governments might be disproportionately affected. Without a clear obligation, it is difficult to hold provincial DFOs accountable for providing timely and adequate support, potentially leading to delays or abandonment of urban greening projects.

Table 7 summarizes the ambiguity in urban forest technical assistance and provides recommendations for clarity:

Table 7 Urban Forest Technical Assistance - Clarity and Recommendations

Current Provision	Identified Ambiguity/Challenge	Impact of Ambiguity	Proposed Amendment/Clarification
Section 38(1): Local levels develop/manage urban forests.		Constitutional mandate for local autonomy aligned.	No change needed for this subsection.
Section 38(2): Provincial DFOs "must provide necessary technical assistance."	Ambiguity: Is this assistance obligatory upon request or discretionary? The term "necessary technical assistance" is open to interpretation.	Impediment to Local Autonomy: Local governments' ability to effectively implement urban forest initiatives becomes dependent on provincial discretion, undermining their constitutional mandate. Uneven Development: Smaller or less resource-rich local governments might be disproportionately affected, leading to inconsistent urban forest development. Lack of Accountability: Difficult to hold provincial DFOs accountable for timely/adequate support.	Clarify Obligation: Amend Section 38(2) to explicitly state that the provision of "technical assistance" by Divisional or Sub-Divisional Forest Offices is obligatory upon request from local governments for urban forest development, subject to established guidelines and procedures.
Section 38(3): Local levels use urban forest products as prescribed.		Clear utilization of products.	No change needed for this subsection.
Forest Regulation, 2079, Section 86	Requires local levels to coordinate with DFO and	While it details coordination, it does not resolve the core ambiguity of obligation.	Define Scope of Assistance: The Act or subsequent regulations should define the scope of

Current Provision	Identified Ambiguity/ Challenge	Impact of Ambiguity	Proposed Amendment/Clarification
	Provincial Ministry for management plans. Allows federal Department to collaborate.		technical assistance (e.g., site assessment, species selection, nursery establishment, pest management, plan preparation). Establish Service Delivery Standards: Develop clear service delivery standards and timelines for providing technical assistance. Capacity Building for Local Levels: Complement technical assistance with programs to build internal technical capacity of local governments.

4. Comparative Analysis of Federal and Bagmati Forest Acts

The Federal Forest Act, 2076, promulgated on 2076/06/27, is Nepal's national forest governance legislation. It amends and integrates existing laws to promote national prosperity by establishing frameworks for various national forest categories (government-managed, conservation areas, community, collaborative, leasehold, religious) and fostering private, public, and urban forests. It also emphasizes wildlife, environment, watershed, and biodiversity conservation. A recent amendment on 2081/03/24 B.S. (Investment Facilitation Amendment Act, 2081) reflects evolving national priorities.

The Bagmati Province National Forest Act, 2076, promulgated on 2076/06/02, is the first provincial forest legislation. Its purpose is to protect and manage provincial national forests, ensure sustainable timber supply, promote a healthy environment, provide environmental services, and contribute to provincial prosperity through community-managed systems. Amended on 2077/04/16 and 2079/04/30, the Act requires review and amendment to align with the updated Federal Forest Act (2081/06/24) and prevent conflicts.

4.1. Comparison of Federal and Bagmati Forest Acts

1. Definition and Governance of Inter-Provincial Forests

Federal Provision: Defines "Inter-provincial Forest" as a national forest spanning multiple provinces, geographically connected, and ecologically interdependent, with concurrent federal and provincial jurisdiction.

Provincial Provision: Defines "National Forest" within the province but does not address inter-provincial forests.

Detailed analysis of conflict: This omission creates a legal void, risking ultra vires challenges and jurisdictional disputes, hindering effective management of shared forest resources.

Proposed Resolution: Amend the Bagmati Province Forest Act to include a clear definition and regulatory framework for inter-provincial forests, consistent with constitutional mandates, ensuring federal-provincial cooperation.

2. Strategic Planning Authority for National Forests

Federal Provision: Mandates the Nepal government to formulate integrated or provincial strategic plans for national forests, including inter-provincial ones, in consultation with provincial governments. DFOs prepare and implement participatory plans with prescribed approval. The federal government also plans for inter-provincial forests.

Provincial Provision: Delegates strategic planning for national forests to the provincial DFO, with approval from the Provincial Directorate.

Detailed Analysis of Conflict: This divergence creates ambiguity in strategic planning authority, leading to administrative inefficiencies, conflicting priorities, and a disconnection between national policy and provincial implementation.

Proposed Resolution: Revise the Bagmati Province Act to clarify that strategic planning for national forests falls under federal jurisdiction, with provincial authorities managing operational aspects in coordination.

3. Approval Authority for Operational Plans of Government-Managed Forests

Federal Provision: Operational plans for government-managed forests are approved "as prescribed," implying federal Ministry oversight (Federal Forest Regulation).

Provincial Provision: Operational plans for government-managed forests are prepared by the DFO and approved by the Provincial Directorate.

Detailed Analysis of Conflict: This direct contradiction in approval hierarchy causes procedural delays and jurisdictional disputes, potentially paralyzing forest management activities.

Proposed Resolution: Harmonize approval authority with the Federal Forest Regulation, recognizing the federal Ministry's role and incorporating a consultative role for the Provincial Directorate.

4. Provisions for Use of Force by Division Forest Officers (DFO)

Federal Provision: Permits forest staff or security personnel to use necessary force to prevent or stop offenses, including shooting below the knee in extreme circumstances upon DFO order.

Provincial Provision: Section 12 explicitly permits DFOs to use "necessary force" when obstructing actions or taking possession of property.

Detailed Analysis of Conflict: The Bagmati Act's broad allowance for DFOs to use force, without clear guidelines on oversight, proportionality, and human rights, raises concerns about abuse of power and potential violations.

Proposed Resolution: Amend the Bagmati Act's DFO use of force provisions to include clear guidelines on oversight, proportionality, and human rights compliance, consistent with federal and international norms.

5. Benefit Sharing Mechanisms from Protected Areas

Federal Provision: Mandates benefit-sharing from forest conservation areas to adhere to national laws and frameworks, specifically NNRFC recommendations, ensuring equitable revenue distribution.

Provincial Provision: Section 32(3) states at least 50% of the Consumer Group Fund (for forest conservation areas) must be spent on development, conservation, and management, but does not reference national frameworks or intergovernmental coordination for broader benefit-sharing.

Detailed Analysis of Conflict: The provincial act's unilateral approach to benefit sharing contradicts the federal mandate for equitable revenue distribution, undermining fiscal federalism and potentially causing inter-governmental fiscal disputes.

Proposed Resolution: Modify the Bagmati Province Act's benefit-sharing framework to reference NNRFC recommendations, ensuring equitable revenue distribution among federal, provincial, and local governments.

6. Declaration Authority for Forest Protection Areas / Protected Forests

Federal Provision: Empowers the federal Ministry to declare Forest Protection Areas with mandatory consultation with the relevant provincial ministry, based on national/international importance or conservation needs.

Provincial Provision: Section 30a states declarations are "in accordance with the prevailing federal forest law". However, concerns exist that the provincial act allows for unilateral declarations without mandatory federal consultation or adherence to national standards.

Detailed Analysis of Conflict: If the provincial act's implementation allows unilateral declarations, it risks uncoordinated conservation efforts and jurisdictional conflicts, undermining national conservation strategies.¹

Proposed Resolution: Introduce mandatory consultation and coordination with the federal government before declaring Forest Protection Areas, ensuring consistency across government levels.

7. Requirements for Management Plans Prior to Area Declarations

Federal Provision: Section 15(1) implies a special work plan is prepared before a Forest Protection Area is declared, ensuring declarations are informed by detailed planning.

Provincial Provision: Section 30a states declarations and management plans are "in accordance with federal law". However, the provincial act allows for declaration first and management plan development afterward.

Detailed Analysis of Conflict: This procedural deviation risks premature or arbitrary forest protection decisions without adequate environmental or social assessment, undermining scientific rigor and potentially generating community resistance.

Proposed Resolution: Mandate that detailed conservation and management plans be prepared and approved before declaring Forest Protection Areas to ensure informed and scientifically justified decisions.

8. Process for Handover of Community Forests

Federal Provision: User groups apply directly to the Division Forest Office for community forest handover, without local government recommendation.

Provincial Provision: Requires user groups to first obtain recommendations from local governments before applying to the Division Forest Office.

Detailed Analysis of Conflict: This additional procedural step introduces conflict and uncertainty, potentially delaying handovers and disempowering user groups by adding an unnecessary bureaucratic layer.

Proposed Resolution: Remove the local government recommendation requirement for community forest handover applications to comply with federal provisions, while encouraging voluntary coordination with local bodies.

9. Approval Mechanisms for Transportation of Forest Products

Federal Provision: Requires local government approval for transport within local jurisdictions and DFO approval for transport between local levels.

Provincial Provision: Bypasses local governments entirely for commercial private forest products, requiring approval solely from the Sub-Division Forest Office.

Detailed Analysis of Conflict: This discrepancy reduces local government participation and oversight in forest resource management, potentially leading to revenue leakage and undermining local governance.

Proposed Resolution: Amend the transportation approval process to require local government approval for intra-jurisdictional transport and Division Forest Office approval for inter-local transport, aligning with federal law and enhancing local participation.

Table 8 Comparative Overview of Key Contradictions

Issue	Federal Act Provision	Bagmati Province Act Provision	Nature of Conflict
Definition/Governance of Inter-Provincial Forests	Defines "Inter-provincial Forest" and grants concurrent jurisdiction.	Does not address inter-provincial forests at all.	Legal and governance gap; potential for <i>ultra vires</i> actions and jurisdictional disputes.
Strategic Planning Authority	Federal government formulates integrated/provincial	DFO prepares strategic plans for national forests,	Overlapping authority; potential for conflicting

Issue	Federal Act Provision	Bagmati Province Act Provision	Nature of Conflict
	strategic plans in consultation with provinces; DFOs implement participatory plans with prescribed approval.	approved by Provincial Directorate.	strategic priorities and policy disconnect.
Approval Authority for Government-Managed Forests	Implies federal Ministry oversight for operational plan approval (as per Federal Forest Regulation). ¹	Operational plans approved by Provincial Directorate.	Direct contradiction in approval hierarchy; leads to procedural delays and jurisdictional disputes.
Use of Force by DFO	Allows forest staff/security to use necessary force, including shooting in extreme cases, to prevent/stop offenses. ¹	Explicitly permits DFOs to use necessary force when obstructing actions or taking possession of property ¹ .	Broad provincial allowance without clear guidelines on oversight, proportionality, and human rights.
Benefit Sharing from Protected Areas	Mandates adherence to NNRFC recommendations for equitable revenue distribution. ¹	Sets a fixed 50% minimum for forest conservation area development from Consumer Group Fund, without reference to national frameworks or intergovernmental coordination.	Unilateral provincial approach undermines fiscal federalism and equitable revenue distribution.
Declaration Authority for Forest Protection Areas	Federal Ministry declares with mandatory provincial consultation.	States declarations are "in accordance with federal law" but concern exists regarding potential for unilateral provincial power.	Risk of uncoordinated conservation efforts and jurisdictional conflicts if unilateral declarations occur.
Management Plans Prior to Declarations	Implies special work plan prepared <i>before</i> declaration of Forest Protection Area.	Allows for declaration first and development of management plan afterward.	Risk of premature/arbitrary decisions without adequate environmental/social assessment.
Handover of Community Forests	User groups apply directly to DFO without local	Requires local government recommendation	Additional bureaucratic step; introduces conflict

Issue	Federal Act Provision	Bagmati Province Act Provision	Nature of Conflict
	government recommendation.	before application to DFO.	and uncertainty, disempowering user groups.
Transportation of Forest Products	Requires local government approval for intra-local transport, DFO for inter-local transport.	Bypasses local governments, requiring approval solely from Sub-Division Forest Office for commercial private forest products.	Reduces local government participation and oversight; potential for revenue leakage.

4.2. Analysis of Gaps in the Bagmati Forest Act

1. Absence of "Collaborative Forest" Definition

Federal Act Provision: Explicitly defines "Collaborative Forest" as a national forest managed in partnership between the Division Forest Office, local levels, and forest consumers, outlining its objectives.

Absence/Inadequacy in Bagmati Province Act: The term "Sajhedari Forest" (Collaborative Forest) is absent, leaving a regulatory gap. While "partnership" is mentioned for herbal farming and "Chakala Forest," a distinct framework for collaborative forest management is missing.

Analysis of Implications: This omission limits the provincial act's capacity to promote and regulate multi-stakeholder forest management, hindering participatory governance and investment.

Proposed Integration: Amend the Bagmati Province Act to include a definition of "Sajhedari Forest" and establish regulatory provisions for collaborative forest management.

2. Lack of Explicit Recognition for "Buffer Zones"

Federal Act Provision: Explicitly defines "buffer zones" within Forest Conservation Areas as interconnected communities and resources, facilitating balanced conservation and development.

Absence/Inadequacy in Bagmati Province Act: The Bagmati Province Act does not explicitly recognize or define buffer zones.

Analysis of Implications: This omission limits the provincial act's capacity for integrated community-based conservation, crucial for managing human-wildlife interfaces and sustainable development around protected areas.

Proposed Integration: Incorporate a clear definition of buffer zones into the Bagmati Province Act, as per federal guidelines, ensuring their consideration in conservation and development planning.

3. Omission of Provisions for "Urban Forests"

Federal Act Provision: Explicitly addresses urban forest development and management by local levels, directly or in partnership, with DFO technical support.

Absence/Inadequacy in Bagmati Province Act: Despite local governments initiating urban forest programs, the Bagmati Province Forest Act lacks any provisions for urban forest management.

Analysis of Implications: This omission constrains intergovernmental cooperation and the scaling of urban forestry initiatives, leaving a regulatory void for a critical environmental management area.

Proposed Integration: Add legal provisions to the Bagmati Province Act to support urban forest development and management, enabling local governments to implement and scale initiatives effectively.

4. Discrepancies in Utilization Mandates for Community Forest Users Group (CFUG) Income

Federal Act Provision: Mandates at least 25% of CFUG annual income for forest development/management, and at least 50% of the remaining for poverty alleviation, women empowerment, and enterprise development in consultation with local governments.

Absence/Inadequacy in Bagmati Province Act: Maintains 25% for forest management, but allows the remaining 75% for "other general development activities".

Analysis of Implications: This discrepancy risks diverting funds from federal social justice objectives, potentially undermining poverty alleviation and women's empowerment, and possibly violating constitutional principles.

Proposed Integration: Align the Bagmati Province Act's CFUG income utilization with federal mandates, requiring a portion for poverty alleviation, women's empowerment, and skills development in consultation with local governments.

Table 9 Gaps in Bagmati Province Act vs. Federal Act

Missing/Inadequate Provision in Bagmati Act	Federal Act Counterpart	Implications of Gap
Absence of "Collaborative Forest" Definition	Explicitly defines "Collaborative Forest" as a partnership for management.	Limits provincial capacity to promote and regulate multi-stakeholder forest management; hinders participatory governance and investment.
Lack of Explicit Recognition for "Buffer Zones"	Defines "buffer zones" as areas linked to forests and communities for balanced conservation and development.	Limits integrated community-based conservation approaches; potential for increased human-wildlife conflict and fragmented ecological management.
Omission of Provisions for "Urban Forests"	Explicitly addresses urban forest development and management by local levels with DFO support.	Constrains intergovernmental cooperation and scaling of urban forestry initiatives; missed opportunities for green infrastructure and climate resilience.
Discrepancies in Utilization Mandates for CFUG Income	Mandates 25% for forest activities, and 50% of remaining for poverty alleviation, women empowerment, enterprise development.	Allows remaining 75% for "other general development activities".

4.3. Recommendations for Legislative Harmonization

Achieving legislative harmonization is critical for robust, efficient, and sustainable forest governance in Nepal. The following recommendations address identified contradictions and gaps, fostering cooperative federalism and effective forest management.

1. *Incorporate Inter-Provincial Forest Provisions:* Amend the Bagmati Province Forest Act to include a clear definition and regulatory framework for inter-provincial forests, consistent with constitutional mandates, ensuring federal-provincial cooperation.
2. *Clarify Strategic Planning Authority:* Revise the Bagmati Province Act to state that strategic planning for national forests falls under federal jurisdiction. Provincial authorities should manage operational aspects in coordination with the federal government for policy coherence.
3. *Harmonize Approval Processes for Government-Managed Forests:* Align approval authority for operational plans of government-managed forests with the Federal Forest Regulation, recognizing the federal Ministry of Forests' role and incorporating a provincial consultative role.
4. *Review Use of Force Provisions:* Amend DFO use of force provisions in the Bagmati Act to include clear guidelines on oversight, proportionality, and human rights compliance, consistent with federal and international norms.

5. *Align Benefit Sharing Mechanisms:* Modify the Bagmati Province Act's benefit-sharing framework to reference NNRFC recommendations, ensuring equitable revenue distribution among federal, provincial, and local governments.
6. *Establish Coordinated Declaration Processes for Protected Areas:* Introduce mandatory federal consultation and coordination before declaring Forest Protection Areas within Bagmati Province, ensuring consistent declarations and a unified national conservation strategy.
7. *Require Management Plans Before Declarations:* Mandate that detailed conservation and management plans be prepared and approved before declaring Forest Protection Areas, ensuring informed and scientifically justified decisions.
8. *Streamline Community Forest Handover Process:* Remove the local government recommendation requirement for community forest handover applications in the Bagmati Province Act to comply with federal provisions, while encouraging voluntary local coordination.
9. *Integrate Local Government in Forest Product Transportation Approvals:* Amend the Bagmati Province Act's transportation approval process to require local government approval for intra-jurisdictional transport and DFO approval for inter-local transport, aligning with federal law and enhancing local participation.
10. *Define and Regulate Collaborative Forests:* Include a clear definition of “Collaborative Forest” and establish regulatory provisions to support collaborative forest management involving multiple stakeholders in the Bagmati Province Act.
11. *Recognize Buffer Zones Explicitly:* Incorporate a clear definition of buffer zones into the Bagmati Province Act, adhering to federal guidelines, ensuring their consideration in conservation and development planning.
12. *Include Urban Forest Provisions:* Add legal provisions to the Bagmati Province Act to support urban forest development and management, enabling local governments to implement and scale urban forestry initiatives effectively.
13. *Ensure Social Justice in CFUG Income Use:* Align the Bagmati Province Act's CFUG income utilization with federal mandates, requiring a portion for poverty alleviation, women’s empowerment, and skills development in consultation with local governments.

5. Comparative Analysis of Provincial Environmental and Forest Laws

Nepal's federal structure has led to varied provincial environmental and forestry laws. This report compares the Bagmati Province National Forest Act, 2076 (BPFA) and Environment Protection Act, 2077 (BPEPA) with Lumbini Province Forest Act, 2078 (LPFA) and Environment Protection Act, 2077 (LPEPA).

Lumbini Province's legislation is generally more comprehensive, notably establishing an overarching Environment Protection and Climate Change Management Council and a Protected Forest Council. It also provides detailed provincial-level offenses and penalties in both its forest and environment acts. Bagmati Province, in contrast, lacks a similar high-level environmental council and often defers to federal law for procedural specifics and penal provisions in its forest act. While both provinces manage community forests and restrict forest access, Lumbini introduces "collaborative forests" and mandates a higher provincial revenue share from community forest products. The later enactment of Lumbini's laws suggests a potential evolution in legislative comprehensiveness.

The analysis highlights the need for greater harmonization and coordination across provincial legal frameworks for effective environmental governance.

5.1. Forest Law Comparison

Forest Governance and Land Acquisition

In Bagmati Province, the forest law provides a comprehensive and detailed process for acquiring private land for inclusion in national forests. The law ensures transparency and procedural fairness, allowing affected individuals to object and seek compensation. This contrasts with Lumbini Province's legislation, which briefly acknowledges the provincial right to acquire land but leaves procedural specifics to be governed by federal law, indicating a lack of legislative clarity.

Forest Access Restrictions

Both provinces empower their Division Forest Officers to restrict access to national forests for reasons of security or environmental protection. This includes banning the entry of people and animals into designated forest areas.

Protected Forests

Bagmati Province has amended its forest laws to align with federal legislation by replacing the term "protected forest" with "forest protected area," ensuring terminological consistency. Lumbini Province, however, continues to use the term "protected forest" and has established a Protected Forest Council. This council is composed of local representatives and forest user

group members and is responsible for developing and implementing conservation action plans.

Community and Collaborative Forest Management

Both provinces legislate for community forest management, allowing transfer to user groups and outlining revocation conditions.

Lumbini uniquely legislates for "collaborative forests," formalizing joint management by the Division Forest Office, local governments, and user groups, with explicit product sharing (50% to provincial government, 50% to user group for timber/firewood) and a dedicated fund. Bagmati lacks a similar provision.

Lumbini mandates a higher 25% of revenue from external sales of community forest products to the Provincial Consolidated Fund, compared to Bagmati's 10%. Lumbini also requires a larger portion of the group's retained income (40% for forest activities, 50% of remainder for poverty reduction/women empowerment) to be spent on social development.

Revocation of Community Forest Rights

Forest laws of both provinces grants the authority to revoke community forest user group registrations if they act in violation of management plans or harm the environment. The officer (Divisional Forest Officer in Bagmati and concerned officer in Lumbini) may also impose penalties. This provision empowers provincial authorities to ensure accountability and environmental compliance within community-based forest management systems.

Provisions for Old House Timber Transport and Timber Product Standards

Bagmati Province's law does not contain specific provisions regarding old house timber transport or timber product standards. Lumbini Province allows for the transport of timber or timber products used in old houses or sheds on privately owned land with the recommendation of the concerned ward office, defining "old house timber" as timber used in a house at least ten years old. It also empowers the provincial government to determine and implement standards for the use of timber products, including furniture, in government offices within the province.

Agroforestry and Management of Forests on Private/Public Land

Bagmati Province mentions agroforestry as a permissible activity within commercial leasehold forests, aimed at forest conservation and development [Section 47(1)(१)]. It also has provisions for private forests, allowing owners to manage, conserve, and utilize them as they wish, with technical support from the Division Forest Office. Public land can also be developed and managed by local governments for forest purposes. Lumbini Province allows for agroforestry systems to be adopted in forest areas without changing the land use of the forest land. It also has detailed provisions for private forest registration and management, explicitly stating that private forests will not be nationalized and providing incentives like

special facilities, discounts, and insurance to private forest owners for development and conservation. Local levels can develop and manage public land (excluding national forest) as forest gardens, parks, and urban forests for public use [Section 73(1)].

Forest Fire Prevention and Control

Bagmati Province's law does not contain any specific provisions regarding forest fire prevention. Lumbini Province, however, places a strong emphasis on forest fire prevention and control. Its Ministry is mandated to prepare a strategic plan, including the repair and maintenance of water ponds in drought-prone areas and the construction of new ponds. Division Forest Offices are required to map high-risk areas, collaborate with local authorities, and issue public notices outlining precautionary measures and prohibited activities. Compliance is mandatory, and violations are penalized. Crucially, every community, collaborative, leasehold, religious, block, and protected forest must include a forest fire control plan in its action plan, mandating fire line construction, maintenance, protection pond construction, management of flammable materials, regular patrolling, and awareness activities. The cost of these plans is borne by the respective groups or managers. Relief is also provided to personnel suffering damages during forest fire control efforts [Section 91(6)].

Medicinal Herbs and Non-Timber Forest Products

Institutional Frameworks: Bagmati has a single Board for comprehensive development and promotion. Lumbini adopts a more disaggregated approach with specialized institutions like a "Jadibuti Research Center," "Botanical Gardens," "Herbarium Centers," and "Laboratories," emphasizing scientific research and quality control.

Offenses, Penalties, and Enforcement Procedures

Bagmati's forest law largely defers to federal law for specific offenses, punishments, and investigative procedures. Lumbini, conversely, provides a comprehensive and specific list of provincial offenses and corresponding penalties within its own act, asserting greater provincial autonomy in criminal justice for natural resource management.

Bagmati relies on federal law for specifics of arrest, search, and seizure. Lumbini details these procedures provincially, including "special powers" for forest staff (e.g., use of force in dangerous situations) and specific guidelines for investigation and prosecution, indicating a robust provincial enforcement mechanism.

5.2. Environmental law comparison

This section compares the Bagmati Environment Protection Act, 2077 (BPEPA 2077) and the Lumbini Environment Protection Act, 2077 (LPEPA 2077).

Institutional Structures for Environmental Governance

Lumbini Province (LPEPA 2077): Establishes an Environment Protection and Climate Change Management Council (Section 22) chaired by the Chief Minister, with a broad

mandate for integrating environmental and climate concerns into planning and policy direction. It also provides for Environmental Inspectors and an Environmental Laboratory.

Bagmati Province (BPEPA 2077): Does **not** establish an overarching Environment Protection Council. Key roles are assigned to the Ministry, Local Levels (for waste management), and District Coordination Committee (for environmental study report approvals). Environmental Inspectors are also established.

Lumbini's explicit, high-level council provides a centralized strategic body for comprehensive environmental and climate governance, a structural advantage over Bagmati's more fragmented approach.

Provisions for Environmental Study Reports (EIA, IEE, SEA)

Both acts mandate different levels of environmental study reports (Brief Environmental Study, IEE, EIA) based on project scale, requiring approval before implementation. Common requirements include public participation, alternative analysis, Environmental Management Plans (EMPs), supplementary reports for modifications, and post-implementation environmental audits. Lumbini explicitly defines "Strategic Environmental Analysis" (SEA) and allows for "Environmental Profiles" to map carrying capacity.

Pollution Control

Both provinces empower their governments to set standards for water, soil, and air quality, prohibit significant pollution, and adhere to the "polluter pays" principle. They can restrict or ban polluting activities/substances and utilize laboratories for testing. Lumbini offers incentives like "Pollution Control Certificates" and "Eco-labels" for good environmental performance. Bagmati allows for outright bans on specific industries, vehicles, or plastic products based on pollution risk and requires prior approval for plastic-related industries.

Climate Change Adaptation

Both acts mandate the Ministry and local levels to prepare and implement "Adaptation Plans" to cope with climate change impacts, prioritizing vulnerable groups and high-risk areas. They also empower the provincial government to issue orders and set standards for risk mitigation and technology development.

Environmental Protection Areas

Both provinces empower their governments to designate "Environmental Protection Areas" for natural, ecological, or cultural significance, listing prohibited activities within them (e.g., damaging natural heritage, harming wildlife, unauthorized entry). Both also address river protection, open/green areas, and environmentally sensitive/pollution-affected zones.

6. Analysis of Local Forest and Environment Laws in Bagmati Province

6.1. Analysis of Forest Governance Provisions in Local Level Acts

The analysis of local-level acts in Bagmati Province reveals a concerted effort by municipalities and rural municipalities to establish legal frameworks for forest governance, reflecting the decentralized powers granted by the federal constitution and the Local Government Operation Act.

1. Indrawati Rural Municipality

Indrawati Rural Municipality's "Local Forest Act, 2079" is a comprehensive piece of legislation demonstrating a strong commitment to community-based forest management.

a) Forest Ownership & Management

The Act explicitly provides for the acquisition of community forest ownership with the consent of both the Nepal Government and the Indrawati Rural Municipality, ensuring local community rights to sustainable forest management. A key aspect of this is the stipulation that such forest areas cannot be transferred to other entities without the prior informed consent of the local community, although exceptions exist for public interest projects that do not adversely affect community interests. The Act mandates the formation of Community Forest Management Groups by local communities for sustainable management and biodiversity conservation, requiring them to develop detailed work plans for resource development, conservation, and utilization. The local government plays a crucial oversight role, being responsible for mapping forest areas, promoting conservation through user groups, and approving their annual operational plans to ensure scientific forest utilization. The Act also outlines the local government's authority to warn or take action against user groups for non-compliance with legal provisions, work plans, or actions that degrade forest status.

b) Forest Utilization & Revenue Sharing

The Act grants communities the right to sell excess forest products, such as firewood, fodder, litter, and timber, with the local government's permission, after fulfilling their basic needs. A significant provision for revenue sharing mandates that 10% of the income from the sale and distribution of forest products must be deposited into the local government's consolidated fund, as per Section 62 (b) of the Local Government Operation Act. This ensures a direct financial contribution to local governance from forest resources. Furthermore, the Act encourages the establishment of various forest-based industries and enterprises, including timber sawmills, small furniture industries, and non-timber/wood art industries, either by user groups themselves or in partnership with local, provincial, or federal governments or the private sector. This emphasis on local enterprise development aims to maximize benefits from forest resources for community economic upliftment.

c) Protection & Traditional Practices

The Act places significant responsibility on user groups for sustainable management, biodiversity conservation, and protection of community forests from damage such as grazing, fire, and illegal logging. It formally recognizes traditional access rights of communities to national forests, including water sources, grazing areas, and historical/cultural/religious sites, ensuring their free utilization without hindrance. The Act also provides for compensation from the local government for damages caused by wildlife, and relief for accidents during fire control or forest management. A notable commitment to social inclusion is the requirement for inclusive representation in user committees, mandating at least 50% women's representation in decision-making positions. The establishment of a Local Forest Council, with diverse representation including indigenous, women, Dalits, and experts, further institutionalizes the protection of forest-related rights and provides a platform for policy formulation and suggestions to the rural municipality.

2. Marin Rural Municipality

Marin Rural Municipality's "Forest Act, 2081" also presents a detailed framework for forest governance, with a strong emphasis on community and private forest management.

a) Forest Ownership & Management

The Act clarifies land ownership, stating that public land within the rural municipality is vested in the rural municipality, while national forest land ownership remains with the Government of Nepal as per federal laws. Community forest areas are designated as community lands. A critical provision prohibits any settlement or resettlement in forest areas, with temporary exceptions for natural disaster victims that do not lead to forest destruction. Any land use change in forest areas requires the consent of the user group and rural municipal executive. The Act prioritizes the handover of remaining forest areas to community forests and mandates support from the rural municipality and provincial forest office for work plan preparation and amendments. It also allows for the utilization of non-forest areas (e.g., those on maps but no longer forested) for public purposes, provided an equivalent area is developed as forest.

b) Forest Utilization & Revenue Sharing

The Act empowers user groups to independently determine the value of forest products from their approved work plans, though a minimum price must be maintained as per federal law for commercial sales outside the group. This balances local autonomy with national standards. A significant revenue sharing mechanism allocates at least 25% of mineral revenue from national forest areas to community forests for forest and environmental protection. Furthermore, community forest revenue is earmarked: at least 25% for sustainable forest management and at least 50% of the remainder for poverty reduction, forest enterprise development, and women's empowerment, in coordination with the rural

municipality. Revenue from public land timber sales is to be deposited into the rural municipality's consolidated fund.

c) Protection & Traditional Practices

The Act reinforces the user group's responsibility for sustainable forest management. It addresses human-wildlife conflict by mandating programs to reduce damage and allowing for additional relief from the rural municipality and user groups, beyond federal/provincial relief, and permits the establishment of a relief fund. Wetland conservation is promoted through user groups. A strong emphasis is placed on the conservation and promotion of traditional practices and knowledge of indigenous nationalities and local communities in forest management, ensuring their rights over forest resources and livelihood are protected. The Act also provides for the formation of an inter-local level forest coordination committee for sustainable management of forests spanning multiple jurisdictions. Forest fire control measures, including joint efforts, awareness, capacity building, and relief for those harmed during firefighting, are also detailed.

3. Other Local Levels (General Provisions)

Several other local levels in Bagmati Province have enacted environmental protection acts that also incorporate provisions related to forest governance, often as part of broader natural resource management. While not dedicated forest acts like Indrawati or Marin, these acts contribute to the overall forest governance landscape.

a) Bhaktapur Municipality (Act related to Environment Protection and Pollution Control, 2077)

Bhaktapur Municipality's Act primarily focuses on environment protection and pollution control within its historic urban area. In terms of forest governance, it defines "Green Area" to include specific forest zones like Sallaghari and religious sites, and explicitly prohibits the indiscriminate cutting or destruction of trees and plants in riverbank areas and green areas without municipal approval. This demonstrates a focus on urban greenery and specific ecological zones rather than comprehensive forest management.

b) Kathmandu Metropolitan City (Environment and Natural Resources Protection Act, 2077 and its amendment)

Kathmandu Metropolitan City's Environment and Natural Resources Protection Act, 2077, and its 2079 amendment, provide a broad definition of "forest" as an area fully or partially covered by trees or bushes. The Metropolitan City assumes primary responsibility for forest protection and promotion, including wildlife and green areas, and promotes community participation in forest management. The Act encourages urban forest development and outlines procedures for private forest registration. It also addresses the use of forest land for development projects, requiring federal approval, and emphasizes the conservation of

traditional knowledge and practices related to forests. The amendment primarily clarifies environmental assessment procedures and waste management, without altering the core forest provisions.

c) Likhu Tamakoshi Rural Municipality (Environment and Natural Resources Protection Act, 2077)

Likhu Tamakoshi Rural Municipality's Act defines "forest" and "forest products" comprehensively, similar to federal definitions. It places primary responsibility on the Rural Municipality for forest protection and promotion, including wildlife and green areas, and emphasizes community participation in forest management. Provisions for private forest registration, urban forest development, and the use of forest land for development projects (requiring federal approval) are also included. The Act also stresses the importance of combining traditional knowledge and skills with modern science for forest-related practices.

d) Dhunibeshi Municipality (Environment and Natural Resources Protection Act, 2076)

Dhunibeshi Municipality's Act contains provisions for forest governance that largely mirror those found in the Likhu Tamakoshi Rural Municipality Act. This includes similar mandates for forest protection and promotion, community participation in management, private forest registration, urban forest development, the process for using forest land for development projects, and the recognition and integration of traditional knowledge related to forests. The consistency in these provisions suggests a shared understanding and approach to forest governance among municipalities adopting a broader environmental act.

e) Panauti Municipality (Environment and Natural Resources Protection Act, 2077)

Panauti Municipality's Act offers a broad definition of "forest," encompassing community, religious, urban, rural, agroforestry, wetland, and private family forests. Its provisions for forest governance are largely consistent with those seen in Likhu Tamakoshi and Dhunibeshi, covering municipal responsibility for forest protection and promotion, community involvement, private forest registration, urban forest development, the use of forest land for projects, and the integration of traditional knowledge and practices. The comprehensive definition of "forest" in Panauti's Act indicates a holistic view of forest ecosystems within its jurisdiction.

f) Gosainkunda Rural Municipality (Environment and Natural Resources Protection Act, 2080)

Gosainkunda Rural Municipality's Act also aligns with the general pattern observed in other municipalities that have integrated forest governance into broader environmental acts. It includes provisions for the rural municipality's responsibility in forest protection and

promotion, community participation, private forest registration, urban forest development, the use of forest land for development projects, and the recognition of traditional knowledge and practices. This consistency underscores a common approach to environmental and forest management at the local level within Bagmati Province.

6.2. Analysis of Environment Protection Provisions in Local Level Acts

Local-level acts in Bagmati Province demonstrate a robust commitment to environment protection, encompassing pollution control, environmental assessment, climate change considerations, biodiversity conservation, and natural resource management.

1. Pollution Control

General Prohibition & Standards

All analyzed local acts consistently prohibit pollution that contravenes established standards or significantly harms public life, health, and the environment. The scope of pollution addressed varies, with Bhaktapur Municipality specifically mentioning noise, visual, and waste pollution. Kathmandu Metropolitan City expands this to include water and air pollution, and explicitly prohibits harmful heavy metals and plastic bags, indicating a focus on urban environmental challenges. Other municipalities like Likhu Tamakoshi, Dhunibeshi, Panauti, and Gosainkunda generally cover sound, heat, radioactive radiation, waves, waste, and contaminated water, reflecting a broader range of potential pollutants. These acts empower local executives to impose conditions or prohibit polluting activities and to recommend federal/provincial action against harmful substances or mechanisms.

Waste Management

A central theme across all local acts is the comprehensive approach to waste management. Local governments are assigned the primary responsibility for constructing and operating essential infrastructure like transfer stations, landfill sites, and processing plants (e.g., biogas plants) for waste collection, final disposal, and processing. A key principle is producer responsibility for hazardous, industrial, and healthcare waste, ensuring that the burden of managing these specific waste streams falls on the entities generating them.

The acts consistently emphasize waste reduction, segregation at source (into organic, inorganic, and other types), reuse, and recycling, promoting a circular economy approach at the local level. Permit requirements are stipulated for individuals or entities undertaking waste management activities, ensuring regulated operations. Public-private partnership models are encouraged for waste management, allowing local governments to leverage private sector efficiency and community involvement. Service fees for waste management are also authorized, providing a sustainable funding mechanism for these services, with provisions for exemptions for disadvantaged groups.

Specific provisions include Bhaktapur's prohibition of indiscriminate disposal of animal waste, chemical/industrial/healthcare waste, and waste from prohibited items. Kathmandu Metropolitan City uniquely adds provisions for occupational health and safety for waste workers and explicitly prohibits waste burning, reflecting a focus on both human well-being and air quality in dense urban settings.

2. Environmental Assessment Procedures (EIA/IEE)

All local acts mandate environmental studies (brief environmental study reports or initial environmental examination reports) for proposed development projects within their jurisdictions. The approval process typically involves the local Executive or Chief, who can impose conditions for approval or order further environmental impact assessments (EIA) if necessary. Proponents are required to prepare and implement environmental management plans, submitting regular progress reports to the local executive. Implementation of projects without proper environmental approval is prohibited, and local governments have the power to halt such activities. Coordination with federal and provincial bodies for EIA/IEE processes is also emphasized, indicating an understanding of the multi-tiered regulatory environment.

3. Climate Change Adaptation and Mitigation

Local acts recognize the importance of addressing climate change impacts. They empower local executives to formulate and implement adaptation plans, with a specific focus on prioritizing vulnerable groups such as women, persons with disabilities, children, senior citizens, and economically disadvantaged communities. Programs for greenhouse gas emission reduction are also authorized. Marin Rural Municipality's Act goes further by explicitly mentioning the promotion of climate-friendly structures, reduction of vehicle emissions, and carbon emission reduction through forest development. It also includes provisions for relief or rewards for forest user groups that contribute to climate change mitigation by controlling forest destruction and degradation, demonstrating a direct linkage between forest management and climate action.

4. Biodiversity Conservation

All local acts place responsibility for biodiversity conservation on the local government. Key areas of focus include agricultural biodiversity conservation, with provisions for controlling or prohibiting Genetically Modified Organisms (GMOs) and their products that pose environmental or health risks. Wetland conservation is a recurring theme, emphasizing community participation, wise use, and equitable benefit sharing from wetland resources. The acts also mandate biodiversity documentation and the conservation of traditional knowledge and skills related to biodiversity, recognizing the value of local ecological wisdom.

5. Natural Resource Management (beyond forests)

Beyond forest-specific provisions, the local acts address the broader management of natural resources. This includes mandates for mineral conservation, with provisions for surveys,

exploration, and promotion. Watershed conservation and the identification and management of drinking water sources are also emphasized, highlighting the importance of water security. The acts promote the management of open spaces and greenery, including the establishment and management of nurseries and gardens, and tree plantation along riverbanks, canals, and roads. Kathmandu Metropolitan City's Act uniquely includes provisions for groundwater recharge and specific rules for stone, gravel, sand, and soil excavation, reflecting its particular urban and geological context.

6.3. Alignment and Discrepancies with Federal and Provincial Frameworks

The analysis of local-level acts reveals both strong alignment with and potential discrepancies or gaps when compared to federal and provincial legal frameworks.

1. Areas of Strong Alignment

There is a clear and consistent alignment of local acts with the fundamental principles enshrined in the Constitution of Nepal. All analyzed local acts reflect the constitutional right to a clean and healthy environment and the distribution of powers among the three tiers of government. This foundational alignment ensures that local environmental and forest governance initiatives are constitutionally sound.

Furthermore, the local acts generally align with the empowerment principles of the Local Government Operation Act, 2074, which delegates significant authority to local levels in environment and natural resource management. This is evident in the broad scope of responsibilities local governments have assumed, from waste management to biodiversity conservation.

The principles of the federal Environment Protection Act (EPA), 2076, are also largely integrated into local legislation. Requirements for Environmental Impact Assessment (EIA) and Initial Environmental Examination (IEE), as well as general provisions for pollution control, are consistently present. While the practical implementation of principles like "polluter pays" remains a challenge across all levels, the legal intent is present in the local acts.

In forest governance, local acts, particularly those specifically addressing forests like Indrawati's and Marin's, strongly align with the federal Forest Act, 2076. The recognition of community forestry, private forests, and sustainable management approaches, along with provisions for community participation and benefit sharing, directly mirrors federal policy. This consistency in forest management frameworks is crucial for effective conservation and utilization across different administrative boundaries.

2. Areas of Potential Discrepancy or Gaps

There is notable **variation in the specificity versus generality** of local acts. While some municipalities, like Marin and Indrawati, have comprehensive dedicated forest acts, and

Kathmandu and Likhu Tamakoshi have detailed environmental acts, others, such as Bhaktapur, focus more narrowly on specific issues like pollution control rather than broader environmental management. This unevenness in legislative depth across local levels can create disparate governance standards and practices within the same province.

Regarding **enforcement mechanisms**, while penalties are prescribed in local acts, the practical implementation and effectiveness of principles like "polluter pays" and compensation for environmental damages remain challenging across all tiers of government, including the local level. This suggests a gap between legal provision and actual enforcement, which may be exacerbated by capacity limitations.

Capacity gaps at the local government level are a significant concern. Local governments often have environment and disaster management units, but their poor capacity can hinder timely and effective responses, particularly for vulnerable communities. This limitation extends to the complex task of implementing detailed environmental assessment procedures and management plans, which require specialized technical expertise and resources.

The issue of **poor policy integration** is evident in areas like forest fire management. National plans, such as the National Adaptation Plan (NAP), recognize forest fires as a climate-related hazard and call for integrated response systems. However, this policy focus often fails to translate effectively to provincial or municipal levels due to insufficient budget, training, or infrastructure. Many Local Adaptation Plans of Action (LAPAs) may not even include forest fires in their climate vulnerability assessments, indicating a critical disconnection between national policy and local risk profiles.

Furthermore, **overlapping institutional mandates** complicate the governance of fire management and potentially other areas of environmental and forest governance. This lack of clarity in roles and responsibilities among different government bodies can lead to inefficiencies and hinder effective coordination.

Finally, slight **variations in definitions or scope** across local acts could lead to confusion or jurisdictional disputes. For instance, Panauti Municipality's definition of "forest" is notably broader than that found in some other acts, encompassing various land uses like agroforestry and wetlands. Such differences, if not harmonized, could pose challenges in inter-municipal cooperation and consistent application of environmental laws.

6.4. Conclusions and Recommendations

Conclusions

Local levels within Bagmati Province have demonstrated a proactive approach in enacting legislation for forest governance and environment protection. These local acts largely align with the constitutional mandates for environmental rights and the decentralized powers granted by the federal Local Government Operation Act. A consistent and commendable emphasis on community participation, sustainable resource management, and pollution

control is a prominent feature across these diverse local legal instruments. This indicates a shared understanding of the importance of local-level action in environmental stewardship.

However, the analysis also highlights persistent challenges that hinder the full realization of these legislative intents. Inconsistent implementation, particularly of principles like "polluter pays," and significant capacity gaps at the local government level, especially concerning vulnerable communities and complex environmental management tasks, remain critical hurdles. Furthermore, the absence of a comprehensive provincial forest act in the provided materials points to a potential reliance on federal and local acts, which could lead to fragmented oversight and varied interpretations across the province. The varying levels of detail and scope in local acts, ranging from comprehensive dedicated acts to more general environmental provisions, suggest a need for greater harmonization and standardization to ensure uniform and effective governance across Bagmati Province.

Recommendations

Based on the analysis, the following recommendations are proposed to enhance the coherence, effectiveness, and sustainability of environmental and forest governance at the local level in Bagmati Province:

1. Policy Harmonization and Standardization

- *Develop Model Local Acts/Guidelines:* To ensure consistency and reduce discrepancies, Bagmati Province should consider developing model local acts or comprehensive guidelines for both forest and environmental governance. These models should provide a standardized framework while allowing for necessary local adaptations to address unique geographical and socio-economic contexts.

2. Capacity Building and Resource Allocation

- *Strengthen Local Units and User Groups:* Invest significantly in strengthening the technical, managerial, and institutional capacity of local government environment and forest units. This includes providing specialized training for environment inspectors and other personnel. Simultaneously, enhance the capacity of community forest user groups and other community-based organizations to effectively implement their management plans and responsibilities.
- *Allocate Sufficient Resources:* Ensure adequate budget and resources are allocated for the effective implementation of environmental management plans, pollution control measures, and forest protection initiatives at the local level. This should include funding for infrastructure development, technology adoption, and personnel.
- *Address Vulnerable Community Needs:* Specifically address the capacity gaps identified for vulnerable communities in their ability to respond to environmental challenges and disasters, ensuring their active participation and benefit from environmental programs.

3. Enhanced Inter-Governmental Coordination

- *Establish Formal Coordination Mechanisms:* Implement formal and regular mechanisms for coordination and information sharing among federal, provincial, and local governments on all environmental and forest matters. This could involve joint committees, regular meetings, and shared data platforms.
- *Promote Joint Planning and Implementation:* Encourage and facilitate joint planning and implementation of environmental and forest programs, especially for trans-boundary issues such as watershed management, biodiversity corridors, and forest fire control, where collaborative efforts are essential.
- *Clarify Overlapping Mandates:* Systematically review and clarify any overlapping institutional mandates among different government tiers and agencies to avoid confusion, reduce bureaucratic hurdles, and improve overall efficiency in governance.

4. Strengthened Enforcement and Accountability

- *Improve "Polluter Pays" Implementation:* Develop and implement robust mechanisms to strengthen the practical application of the "polluter pays" principle and ensure effective compensation for environmental damages. This requires enhanced regulatory oversight, clear accountability frameworks, and accessible legal recourse for victims.
- *Develop Monitoring and Evaluation Frameworks:* Establish comprehensive monitoring and evaluation frameworks to track compliance with environmental and forest laws, assess the impact of interventions, and identify areas for improvement.
- *Encourage Bottom-Up Enforcement:* Foster a culture of accountability by empowering local communities and user groups to participate actively in enforcement. Address any hesitation in reporting offenders by providing clear reporting channels and protection mechanisms.

5. Integration of Climate Change and Biodiversity

- *Integrate Climate Hazards in LAPAs:* Mandate and support local levels to consistently integrate forest fires and other climate-related hazards into their Local Adaptation Plans of Action (LAPAs) and broader climate vulnerability assessments, ensuring a holistic approach to climate resilience.
- *Promote Integrated Conservation:* Encourage the integration of biodiversity conservation and climate resilience measures across all development planning and forest management practices, moving beyond siloed approaches.
- *Support Research and Data Collection:* Invest in local-level research and data collection on environmental conditions, climate impacts, and biodiversity status to inform evidence-based policy-making and adaptive management strategies.

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