

# Strategic Consideration for River Conservation Legislation in Nepal

## BACKGROUND AND STUDY OBJECTIVES

The Karnali River is Nepal's longest and mightiest river, a living example of natural heritage, a source of livelihood for thousands of people, and one of Nepal's greatest environmental assets. It is a critical resource endowment that must be maintained for future generations. Unfortunately, all signs indicate that the Karnali will also soon become Nepal's last major undammed river - and it too risks being degraded by several proposed hydropower projects, a range of other social and environmental pressures, and systemic governance failure.

Thus, the objective of this research was to develop the Karnali River Corridor Management Framework and Strategic Consideration for River Conservation Legislation in Nepal, which are designed as a companion documents. The "Strategic Consideration for River Conservation Legislation in Nepal" document is intended to encourage and assist the development of legislation that could be implemented at the local, provincial and/or national scale to conserve river systems and protect sections of rivers in Nepal. Local and provincial governments have the legal power to initiate conservation efforts by developing local and provincial legislation focused on river conservation and the protection of sections with significant environmental and social values.

## KEY FINDINGS

This document was prepared in the wake of the Karnali River Scientific Expedition of Fall 2018. The Expedition team travelled the length of the Karnali River from headwaters in China to the confluence with the Ganges River in India with an interdisciplinary team, to examine different possibilities for conserving the Karnali River, as well as the aquatic species and cultural practices that a flowing Karnali supports.

The study includes several strategic recommendations for protecting rivers in Nepal, beginning with the Karnali. We suggest that the main channel of the Karnali River remains free-flowing (in its entirety, or at least in certain high-value sections) and to ensure that water resources and riparian lands are well managed to maintain important social and environmental values. While some sections of the river face specific pressures, our study indicates that the overall Karnali River itself is in a nearly pristine state. Therefore, we must act soon to preserve and improve riverine health, as well as the well-being of the diverse communities living along the river throughout Nepal.

The Karnali is rich in ecological, cultural, and scenic resources. In many ways, it embodies the sense of "wild and scenic" that has guided river conservation efforts in other countries around the world. The findings of this report are based on a literature review of river conservation legislation and the rights of rivers internationally, as well as a series of consultations with Nepalese water experts and environmental advocates.

The findings describe five sections of the Karnali River that we propose are considered for formal classification via river conservation legislation in Nepal. All proposed sections are described with criteria such as: Designation – wild and scenic, nature of the river section – free flowing or not, outstanding and remarkable features – geology, wildlife, fisheries, recreation, scenic, cultural, historic, conservation measures in place and possible threats. It also incorporates key opportunities found in each area. The proposed river sections are based on the following working definitions, which were created in the context of river conservation legislation in other countries, but reviewed by legal experts in Nepal.

- **Wild River Areas** – understood as those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially undeveloped and waters unpolluted.
- **Scenic River Areas** – Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely undeveloped, but accessible in places by roads.
- **Recreational River Areas** – Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.
- **"Free-flowing"** – as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway.
- **Outstandingly Remarkable Value (ORVs)** – are outlined in terms of geology, wildlife, fisheries, recreation, scenic, cultural, and historical values.

## KEY TAKEAWAYS & LESSONS LEARNED

This document is intended to encourage and assist with the development of legislation that could be implemented at the local, provincial and/or national scale to protect river systems or sections of rivers in Nepal. The following are key takeaways described firefly.

- **On Strategic Site Selection and Timing:** Field based analysis and conversations with key stakeholders including government officials of Karnali province, indicate that river conservation in the Karnali region is possible. River conservation advocates will likely have to prioritize some sites over others by coming up with recommendations and potential legislation that balances conservation and development goals, rather than opposing hydropower development altogether. We recommend focusing on enacting river conservation for the five high-value segments of the Karnali River while continuing to promote the broader area as a “Karnali Sacred River Corridor” for the purposes of environmental awareness, branding, and tourism promotion.
- **Defining Key Terms and Using Suitable Language is Critical:** Choosing the correct language is critical for legislative and policy-oriented efforts, as well as general campaigns focused on environmental awareness. To ensure that different stakeholders can understand, relate to, and even identify with river conservation goals, it is critical to workshop different terminologies and phrasings – perhaps by working with a linguist and/or conducting focus groups to determine which terms are most meaningful and appealing to differently positioned stakeholders.
- **Collecting Environmental Data is Critical:** High quality and robust environmental data is needed to make a case for river conservation. As more data is collected, data sharing also becomes critical and sharing of the data would benefit a broad variety of stakeholders. During the data collection citizen participation and participatory data collection exercises can also be useful for encouraging and cultivating local awareness of environmental issues.
- **Not Just Pristine Rivers:** Recognizing and Restoring Different Kinds of Values: River Conservation efforts shouldn't just focus on the most pristine rivers or sections of rivers. In all of the international cases, river conservation efforts do not focus solely on wild and free-flowing rivers – because social and environmental values exist in a variety of different kinds of riverine landscapes, not just the most remote, aesthetic, or undeveloped.
- **Take Local Economic Concerns and “Benefit Sharing” Seriously:** River conservation advocates need to take local desires for economic development seriously – or else they are at risk of being perceived as ‘anti-development’ in the current political climate. To ensure that local livelihoods are taken into consideration – river conservation advocates should work directly with local stakeholders to develop innovative and place-based livelihood opportunities, livelihood enhancement initiatives, and training programs. Therefore, river conservation advocates need to engage potential stakeholders in open dialogue about the potential impacts (positive and negative) of both hydropower development and river conservation efforts.
- **Long Term Management & Compliance are Critical Issues:** The journey does not end once river conservation legislation is passed. Ensuring the ecologically sustainable management of protected rivers and the lands that surround them over the long-term is both a challenging task and a long-term process. Ensuring continuity in the long-term is just as important (if not more important) than the advocacy efforts that lead to

designation and legislation. River conservation advocates therefore need to begin thinking about the scope and design of long-term management plans as early as possible. There is also currently a significant problem related to the maintenance of minimum environmental flows in Nepal that needs to be addressed with improvements in the policy and practice of project monitoring.

- **Continue Advocating for Strategic and Cumulative Impact Assessment:** Identifying high-value rivers and river sections for conservation requires a strategic perspective that considers water resource management issues at the basin and national scale. Strategic and cumulative impact assessment of water and energy infrastructure is sorely needed in Nepal, especially given the density of hydropower development licenses that have already been sold and the number of planned hydropower projects distributed throughout the many watersheds of Nepal. Currently cumulative impacts are poorly understood (by publics and policymakers) and coordinated and strategic decision making about the management of water resources is minimal.
- **Mind the Gap: Paying Attention to Environmental Governance Between Scales:** In the current moment of political transition, several questions about the scale of environmental governance remain unanswered. Legal powers have been named at the local, provincial, and federal levels but there is much room for interpretation depending on the scale of use. If there is no federal law to interpret that pertains to the issue and a local or provincial law exists, then the local or provincial law applies. In this sense, such grassroots initiatives have the opportunity to shape and even drive the evolution of law.
- **Identifying Champions:** Create a 'Strategic Stakeholder Map: Identifying champions and strategic allies that can work to carry forward environmental legislative efforts is critical. Within and beyond the Karnali basin, a strategic map of key stakeholders (potential allies and champions, political leaders sensitive to environmental issues, etc) is greatly needed.
- **Long Term Concerns: Implementation, Management, Compliance and Accountability:** Creating river conservation legislation is only half the journey. Once legislation is drafted and enacted the real work of implementation must begin. This requires the creation of long-term River Conservation Management Plans, and efforts to ensure that river conservation efforts are effectively implemented – which includes monitoring and evaluation programs designed to ensure compliance and accountability. In order to ensure that river conservation policies are effectively implemented, monitoring and evaluation frameworks need to be developed immediately following the designation of river conservation areas.