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Nepal's top court strikes down law allowing development in protected areas

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KATHMANDU — In a historic move, Nepal's highest court has struck down controversial measures to open up protected areas like national parks to infrastructure development such as hydropower plants, hotels and railway lines.

The constitutional bench of the Supreme Court, headed by Chief Justice Prakash Man Singh Raut, issued the verdict on Jan. 15 in a case dubbed as one of the most important in Nepal's conservation history.

"The court has issued an historic order scrapping measures that allow the development of infrastructure inside national parks," senior lawyer Padam Bahadur Shrestha, one of the petitioners in the case, told Mongabay.

The court issued a brief statement following the order, the full text of which is to be issued later. While four of the judges stood in favour of a verdict sought by the petitioners, a lone judge voiced his opinion against such a move.

"The concurrent opinion issued by judge Sapana Pradhan Malla is a highlight of the ruling," said Shrestha.

Malla, while agreeing with three other judges in favour of scrapping of the new law, stated that protected areas are to be safeguarded for future generations based on the principles of inter-generational equity. She added that it would be wrong to pit development and environment against each other by adhering to the belief that development can take place only when there's damage to the environment.

Lawyers Shrestha, Dilraj Khanal, Prakash Mani Sharma and Sanjay Adhikari filed the petition with Nepal's highest court on July 28, days after lawmakers passed new legislation empowering the government to declare sites within protected areas as falling outside of "highly sensitive" zones — a new and arbitrary definition, according to critics.

Such a measure meant anything outside these zones — but still within the protected area boundaries — would be open to construction of various types of

infrastructure, from roads and rail lines to cable cars and hotels. The Supreme Court issued an interim stay on the new law until its constitutional bench could rule on the case.

Nepal has a dozen national parks, one wildlife reserve, one hunting reserve, six conservation areas and 13 buffer zones. These protected areas are spread across the breadth of the country, from the lowland Terai Arc (home to Bengal tigers, *Panthera tigris*) to the high Himalayas (home to snow leopards, *Panthera uncia*).

Although local people were relocated to establish parks in the lowlands, communities continue to live inside some national parks and conservation areas higher up, such as Sagarmatha (Everest), Manaslu and Annapurna. But they live under severe restrictions regarding construction of power lines, felling of trees, use of natural resources, and development of infrastructure.

The Nepal national committee for the IUCN, the global conservation authority, [previously raised concerns that the law](#), which allows the government to approve infrastructure projects inside protected areas, may serve vested interests at the cost of the country's hard-earned conservation achievements.

"If desired, the government can [use the legislation to] allow projects such as hydropower plants, cable cars, hotels, roads, and railways within these [protected] areas, overriding conservation priorities," the committee, representing 27 organizations that have worked in conservation for decades, said in an earlier statement.

[Nepal's Supreme Court](#) has a stellar record of consistently siding with conservation and human rights, activist Babu Krishna Karki noted. "The fresh verdict speaks of its commitment towards upholding its values," he added.