

FINAL REPORT

Monitoring Report on Indigenous Peoples' Rights and Development



Lawyers' Association for Human
Rights of Nepalese Indigenous
Peoples (LAHURNIP)
Kathmandu
Nepal

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Publisher

Lawyers' Association for Human Rights of Nepalese Indigenous
Peoples (LAHURNIP)

Anamnagar, Kathmandu, Nepal

P.O.Box: 11179

Email: lahurnip.nepal@gmail.com

Website: www.lahurnip.org

Contact: +977-01-5705510

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Preface

This Monitoring Report on Indigenous Peoples' Rights and Development present the situation of implementation of United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) since its promulgation in 2008. In particular, this report presents the status of implementation of the UNDRIP in compliance with the Sustainable Development Goals (SDGs). Nepal has party to the UNDRIP and ILO C. No. 69. However, there are very little while comes to the state of implementation.

After promulgation of the 2015 Constitution in the new state structure (federalism) Nepal has been introducing various laws and policies to implement the Constitution. The IPs of Nepal has been constantly raising their voices regarding formulation of laws and policies in compliance with the International human rights instruments including the ILO C. No. 69 and the UNDRIP inter alia others.

But state seems reluctant to accommodate the issues and rights of IPs in laws and policies with have direct affect to their livelihood, identity and way of life. This sooner or later will have reflect in social conflict which Nepal has not witnessed in destructive manners to date.

Thus formulation of laws and policies in accordance with the international human right laws and policies is inevitable to address the social grievances and injustices which ultimately support to peace and progress.

We hope that this report will help to the policy makers, government agencies and concerned institutions and organisations to assess the situation of implementation of UNRIP, SDGCs and other international norms and policies.

We would like to thank Mr. Nanda Kandangwa for conducting this thorough study regarding the aforementioned issue. Our sincere thanks also go to AIPP and EU for supporting the endeavor.

Last but not least, thanks to all the individuals, communities and institutions engaged in the course of study and publication.

Shanti Kumari Rai
Chairperson
LAHURNIP

Acknowledgement

First of all I would like to thank LAHURNIP for entrusting me for this work. I had done many reviews, evaluation, report writing etc. Definitely, this was new for me in the sense that someone designed the questionnaires and did orientation by another one, and report writing by next one based on the data generated during the community survey. Anyway, I had accomplished this task. For this, I thank to all friends of LAHURNIP. I especially thank to Mr. Durga Mani Yamphu and Manoj Athpariya for helping me and providing information for this task.

Lastly, I thank to those who provided me feedbacks and comments. I especially thank to Joan of AIPP who provided comments to enrich the report.

Sincerely,

Nanda Kandangwa

Abbreviations

CBD	Convention on Biological Diversity
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CO ₂	Carbondioxide
CRC	Convention on the Rights of Child
EU	European Union
FGD	Focus Group Discussion
FM	Frequency Modulation
FPIC	Free Prior Informed Consent
GDP	Gross Domestic Product
HD	Human Development
HIV	Human Immunodeficiency Virus
HR	Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labor Organization
IPO	Indigenous People's Organization
IPs	Indigenous Peoples
ITPC	Indigenous and Tribal Peoples Convention
LAHURNIP	Lawyers' Association for Human Rights of Nepalese Indigenous Peoples
MMR	Measles, Mumps and Rubella
NEFIN	Nepal Federation of Indigenous Nationalities
NER	Net Enrolment Rate
NFDN	National Foundation for the Development of Indigenous Nationalities
NGOs	Non-Government Organizations
NHRC	National Human Rights Commission
NPC	National Planning Commission
OHCHR	Office of High Commissioners for Human Rights
SDGs	Sustainable Development Goals
SO	Specific Objective

TB	Tuberculosis
TOR	Terms of Reference
TRIPs	Trade Related Aspects of Intellectual Property Rights
UDHR	Universal Declaration on Human Rights
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VAW	Violence Against Women
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

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Background

Indigenous Peoples (IPs) rights gained recognition in the international system. The adaptation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is an important achievement for the international IPs movement. Despite commitments made by the state parties at the 2014 World Conference on Indigenous Peoples (WCIP), most UN Member States, the implementation of the UNDRIP in laws, policies and practices, is slow and IPs are lagging behind on most human development indicators, such as lower educational levels, higher mortality rates, and generally lacking access to land, natural resources, energy, sanitation, information etc.

The world's 370 million indigenous peoples continue to be over-represented among the poor, the illiterates, and the unemployed. Their health situation is below average, and they live shorter lives than mainstream populations across the globe. The IPs constitute one third of the world's extremely poor rural people-and 15% of the poor, even though they only make up 5% of the world's population.¹

The IPs of Nepal shares 35% of the total population as per the report of the population census 2011. Nepal is party to a number of international human rights instruments including ILO Convention No. 169 and the UNDRIP. However, these are not fully reflected in national laws and policies-not even in the 2015 constitution.²

All United Nations Member States adopted the "2030 Agenda for Sustainable Development" in 2015 that provided a shared blueprint for peace and prosperity for people and the planet, now and into the future. At its heart there are 17 Sustainable Development Goals (SDGs), which are an urgent call for action by the all countries in a global partnership with a spirit of leaving no one behind, including the IPs.

¹ UN Permanent Forum Web site: <http://undesadspd.org/IndigenousPeoples/ThematicIssues/Economicandsocialdevelopment.aspx>

² <http://www.lahurnip.org/resources.html>

Considering this context, Indigenous Navigator (IN) Initiative, a monitoring framework for the IPs rights and development, has been developed by the joint effort of international organizations³ with the support of European Commission. The framework provides a set of tools for the IPs to systematically monitor the level of recognition and implementation of their rights. The framework describes that more than one-third (1/3) of the SDGs targets are linked to the UNDRIP. The monitoring framework intends to measure the implementation of:

- The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- The Commitments made by States at the World Conference on Indigenous Peoples (WCIP)
- Essential elements of the Sustainable Development Goals (SDGs)

In Nepal, the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) has implemented this framework to monitor the rights of the IPs through lens of this monitoring framework.

Objectives of the study

1. To measure the State's commitments and efforts with regards to implementation of IPs rights and development
2. To measure the actual results experienced by indigenous peoples
3. To identify the gaps and provide way forward to address the development aspiration of the IPs

³ 1. *Asia Indigenous Peoples Pact (AIPP)* 2. *Danish Institute of Human Rights (DIHR)* 3. *Forest Peoples Programme (FPP)* 4. *International Labour Organisation (ILO)* and 5. *Tebtebba Foundation* 6. *International Work Group for Indigenous Affairs (IWGIA)*

Methodology

The monitoring framework provides two (national and community) sets of complementary questionnaires. National questionnaire intends to look at the state's commitments and effort for implementation of the IPs rights and development. The national questionnaires were employed to capture the state perspective through the desk research.

The community questionnaires capture the community perspectives on implementation of policy commitments among seven indigenous communities, the aforementioned project implemented as pilot phase.⁴ The community data have been gathered through community meeting. Respondents of each community were trained on the IPs rights and development prior to gathering the community level data. Community leaders, local government members from the IPs background, school teachers, traditional leaders, health workers, youths, women and elders have contributed in the course of the study providing necessary data and information. The data received from the communities have been uploaded on the web portal for analysis and occurred interpretation accordingly.

Limitation

This study only reflects the broad national status of recognition and implementations of the policy commitments including the UNDRIP, Outcome document of the WCIP and essential elements of SDGs. Since the data generated only from seven communities that do not necessarily represent the diverse community of IPs in Nepal, because every community is distinct and unique in terms of their identity and problems. However, the information can be used for policy making, implementation. It provides general idea for the meaningful development of the IPs in line with International standards and SDGs

⁴ *Shanthal, Urau, Majhi, Bote, Chhantyal, Magar and Pahari.*

State Commitments and Efforts

Human Rights Instruments

There are numbers of Human Rights instruments. Of them, Nepal has ratified nearly 30 Human Rights instruments (See *Annex 3*). However, all the instruments are relevant to the IPs, but not all 30 Human Rights instruments are equally important to the IPs. Nearly 12 Human Rights instruments are more important or directly related to the IPs.

Those are briefly examined as follows:

International Convention on the Elimination of All Forms of Racial Discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) has been ratified by Nepal on 30 Jan, 1971. The CERD has provisioned that there shall be 'no distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin in the political, economic, social, cultural or any other field of public life'⁵. Based on this provision, the IPs should not be discriminated, excluded, restricted by the state. Similarly, according to the convention, state parties have to condemn racial discrimination and have to undertake policy for elimination of such discrimination. State party has to engage in no act or practice of racial discrimination, not to sponsor, defend and support racial discrimination. State party has to take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any discriminatory laws and regulations, to prohibit such discrimination by appropriate means including legislation as required.⁶ In the same way, the convention oblige state parties to condemn all propaganda and all organisations which are based on ideas or theories of superiority of one race or group of persons of

⁵ *International Convention on the Elimination of All Forms of Racial Discrimination, Article 1.*

⁶ *Id, Art. 2*

one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form.⁷ In essence, the whole articles of this convention provisioned that no group, person, ethnic group, individual shall not be discriminated based on race, descent, colour, national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Convention on the Rights of Child (CRC)

The Convention on the Rights of Child (CRC) 1989 was ratified by Nepal on 14 September 1990 that ensures lots of rights pertaining to child. Of them, some of the provisions are important for the IPs which ensure the rights of child to be protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.⁸ Likewise, child has right to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference⁹. By the Article 17 of this convention, state has to encourage mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous. The most important thing for indigenous peoples is the provision of Article 30 that ensures the rights of child of ethnic, religious or linguistic minorities or indigenous origin to enjoy his or her own culture, to profess and practice his or her own religion or to use his or her own language.

Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)

Nepal ratified the Convention on the Elimination of All forms of Discrimination Against Women on 22 April 1991. The convention considers women as a homogenous group. Thus it considers

⁷ *Id*, Art. 4.

⁸ *Convention on the Rights of Child*, Art. 2.

⁹ *Id*, Art. 8.

discrimination between women and men only. Hence, it talks about equality (gender equality) between men and women. It defines the term "discrimination against women" as the 'distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field'.¹⁰ In reality, women can't be put into a single basket due to diversity and types of discrimination they have been facing. In Nepal, indigenous women have been facing multiple forms of discrimination; from mainstream women, men and state. Indigenous women in Nepal have been fighting for their human rights and fundamental freedom to end discrimination and injustice taking place within the women in a basket.

International Covenant on Civil and Political Rights (ICCPR)

Nepal ratified the International Covenant on Civil and Political Rights (ICCPR) 1966 on 14 May 1991 that ensures right of self-determination of all peoples. By virtue of that right peoples freely determine their political status and freely pursue their economic, social and cultural development.¹¹ The state party has legal obligation to take necessary steps and measures to adopt laws or other measures that give effect to the rights recognised in this covenant.¹² These provisions of ICCPR are important for the IPs that protect their identity and enhance their political, economic, social and cultural development based on their right to self-determination.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Nepal ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966 on 14 May 1991 that also ensures

¹⁰ Convention on the Elimination of All forms of Discrimination Against Women, Article 1.

¹¹ International Covenant on Civil and Political Rights, Article 1.

¹² *Id*, Art. 2

right of self-determination of all peoples. By virtue of that right peoples freely determine their political status and freely pursue their economic, social and cultural development.¹³ This is a covenant whose implementation is based on progressive realisation especially in the economic part. Most of the targets of some goals of SDGs are tightly connected to the various articles of this covenant.

Convention on Biological Diversity (CBD), 1992

Nepal ratified the Convention on Biological Diversity (CBD), 1992 on 23 November 1993 that ensures sustainable use of components of biological diversity. It protects and encourages customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements, and also directs to support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced.¹⁴

Indigenous and Tribal Peoples Convention (ITPC)

The Indigenous and Tribal Peoples Convention (ILO Convention No. 169) was adopted in 1989 as a review of Indigenous and Tribal Peoples Convention no 107. Nepal ratified the convention on 22 August 2007. Being the IPs as the distinct peoples, this convention ensures their rights to enjoy human rights and fundamental freedom without hindrances or discrimination¹⁵, right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development.¹⁶ Similarly, this convention ensures the right of the IPs to retain their own customs and institutions, where these are

¹³ International Covenant on Economic, Social and Cultural Rights, Art. 1.

¹⁴ Convention on Biological Diversity, Art. 10.

¹⁵ Indigenous and Tribal Peoples Convention no. 169, Art. 13.

¹⁶ *Id*, Art. 7.

not incompatible with fundamental rights defined by the national legal system and with internationally recognised human rights.¹⁷ They have right (ownership and possession) over lands (also include the concept of territories) or traditional lands¹⁸ and natural resources pertaining to lands.¹⁹ They have right to free and informed consent in exception for the case of removal and relocation from their lands which they occupy.²⁰ They have right to return to their traditional lands, as soon as the grounds for relocation cease to exist.²¹ Besides these rights, the convention has obliged a numbers of procedural and action duties for the government.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The United Nations adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007 on 13 September 2007. Out of 143 countries, Nepal was one who voted for the declaration in the 61st General Assembly of the UN. Being declaration it is not a legally binding instrument. However, having an international legal norms and universal human rights instrument, state has shown its commitment to implement it by casting its votes. The rights recognised in this declaration constitute the minimum standard for the survival, dignity and well-being of the IPs of the world. Hence, Nepal has to implement undertaking as normative legal framework and universal human rights instrument. The declaration directs to ensure the rights of the IPs such as right to self-determination²², collective right²³, right to be free from any kind of discrimination²⁴, right to autonomy or self-government²⁵, right to a nationality²⁶, right to non-assimilation²⁷, right to belong to a

¹⁷ *Id*, Art. 8.

¹⁸ *Id*, Art. 14.

¹⁹ *Id*, Art. 15.

²⁰ *Id*, Art. 16.

²¹ *Id*, Art. 16.

²² *Id*, Art. 3.

²³ *Id*, Art. 1.

²⁴ *Id*, Art. 2.

²⁵ *Id*, Art. 4.

²⁶ *Id*, Art. 6.

²⁷ *Id*, Art. 8.

nation or indigenous community²⁸, right to practice and revitalize their cultural tradition and customs²⁹, right of free prior informed consent³⁰, right to establish and control their educational system and institutions providing education in their own language³¹, right to dignity and diversity of their cultures, traditions, histories and aspiration³², and right to establish their own media.³³

Similarly, the declaration ensures right to participate in decision making in matter which would affect their rights³⁴, right to maintain and develop their political, economic and social systems or institutions³⁵, right to determine and development priorities and strategies for exercising their right to development³⁶, right to traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals³⁷, right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, ...³⁸, right to lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired³⁹, right to own, use, develop and control the lands, territories and resources⁴⁰, right to redress and restitution in the case of their lands, territories and resources confiscated, taken, occupied, used or damaged without their free, prior and informed consent, when just, fair and equitable compensation is not possible⁴¹, right to the conservation and protection of the environment and the productive capacity of their lands or territories

²⁸ *Id*, Art. 9.

²⁹ *Id*, Art. 11.

³⁰ *Id*, Art. 11.

³¹ *Id*, Art. 14.

³² *Id*, Art. 15.

³³ *Id*, Art. 16.

³⁴ *Id*, Art. 18.

³⁵ *Id*, Art. 20.

³⁶ *Id*, Art. 23.

³⁷ *Id*, Art. 24.

³⁸ *Id*, Art. 25.

³⁹ *Id*, Art. 26.

⁴⁰ *Id*, Art. 26.

⁴¹ *Id*, Art. 28.

and resources⁴², right to maintain, control, protect and develop their cultural heritage, traditional knowledge, intellectual property and traditional cultural expression, ...⁴³, right to determine their own identity or membership in accordance with their customs and tradition⁴⁴, right to cross boarder contacts⁴⁵, right to recognition, observance and enforcement of treaties, agreements and other constructive agreements concluded with state⁴⁶, and right to have access to financial and technical assistance from State and through international cooperation.⁴⁷

Laws and policies of Nepal:

The Constitution of Nepal, 2015

The Constitution of Nepal, 2015 is the main law of the country. The preamble of the constitution respects and accept Nepali people have sovereign powers and sovereign right with right to autonomy and self-rule by maintaining Nepal's independence, sovereignty, geographical integrity, national unity, freedom and dignity. The preamble provisioned of the right to autonomy and self-rule for those people including the IPs who really needs. Likewise, the Constitution also commits to end all forms of discrimination and oppression created by the feudal, autocratic, centralised and unitary system. In the same way, it also commits to build equitable society on the bases of proportionate inclusion and participatory principle in the context that Nepal is a nation having multi-ethnic, multi-religion, multi-language, multi-cultural specialty and geographical diversity.

The constitution has spelt out few rights of the IPs in line with the international laws but prohibits many of their rights by negating the provisions of international laws especially ILO Convention No. 169 and ICERD, and the constitution also discard the spirit of the

⁴² *Id*, Art. 29.

⁴³ *Id*, Art. 31.

⁴⁴ *Id*, Art. 33.

⁴⁵ *Id*, Art. 36.

⁴⁶ *Id*, Art. 37.

⁴⁷ *Id*, Art. 39.

UNDRIP. The constitution has not specified the rights for the IPs in most cases, but indigenous peoples can enjoy some rights as citizen of Nepal. Hence, constitutional rights of indigenous peoples can be categorized as specified rights and general rights that are provisioned for all citizens.

The specified constitutional rights of the IPs (i) IPs right to participate in state organs (federal and provincial legislatures) on the basis of inclusive principles⁴⁸; (ii) Indigenous Nationalities Commission⁴⁹ and (vii) Tharu Commission⁵⁰ for the protection of rights and interests of the IPs, including Tharus; (iii) IPs right to represent proportionately in the house of representatives through political parties.⁵¹ Besides these, state policy regarding social justice and inclusion provisions/commitments to ensure the rights of indigenous nationalities to lead a dignified life with their respective identities, and make them participate in decision making processes that concern them, and preserve and maintain the traditional knowledge, skill, experience, culture and social practices of indigenous nationalities and local communities.⁵²

The general constitutional rights for all citizens that can be used importantly by the IPs are (i) right to non-discrimination on the basis of ethnicity, language, religion, gender, social origin, physical disability or region⁵³; (ii) right to adhere, practice, and protect one's own religion as per his/her faith and defend and run religious sites and trusts⁵⁴; (iii) right to free, compulsorily, basic education and free education up to the secondary level and right to education in mother tongue and run educational institutions⁵⁵; (iv) right to use own language and right to preserve and promote own language,

⁴⁸ The Constitution of Nepal, 2015, Art. 42 and Art. 283.

⁴⁹ *Id.*, Art. 261.

⁵⁰ *Id.*, Art. 263.

⁵¹ *Id.*, Art. 84.

⁵² *Id.*, Art. 51(J).

⁵³ *Id.*, Art. 18.

⁵⁴ *Id.*, Art. 26.

⁵⁵ *Id.*, Art. 31.

script, culture, cultural civilization and heritage⁵⁶, (v) Economically very poor and communities on the verge of extinction have right to special opportunity and facilities in the areas of education, health, housing, employment, food and social security⁵⁷ and so on.

There are numerous Nepali laws/Acts that are directly or indirectly related to the IPs. More than 300 Acts are to be reviewed and refined to implement the ILO Convention No. 169 and the UNDRIP. Actually, in the case of the IPs rights in line with ILO Convention No. 169 and the UNDRIP, a law or Act governing to all laws/Acts have to be introduced. Based on that, each and every law have to be reviewed. Critical reviews of some of the Acts/laws are presented below from the perspective of the IPs:

Land Act with 7th amendment, 2075 (2018 AD)

The land act has apparently denied to recognise the rights of the IPs over lands, territories and natural resources enshrined in the ILO Convention No. 169 and the UNDRIP. There is nothing changed up to the sixth amendment. In 2018, the parliament amended the land Act 7th times that incorporated an article 52 (a) to make land available to Dalit as per the provision of the constitution through making commission, committee or working group. All other things of the act remained same.

Environment Protection Act with first amendment, 2075 (2018 AD)

The Act defines 'Environment' as the interaction and inter-relationship among the components of natural, cultural and social systems, economic and human activities and their components. It has provisioned 'environmental impact assessment' is compulsory before carrying out development work that spoils environment. The successive Articles of the Act have not spelt out about the cultural and social system damage and effect as per the definition of environment. This Act has been amended in 2018 that included

⁵⁶ *Id*, Art. 32.

⁵⁷ *Id*, Art. 42 and Art.261.

the word 'local community' with definition, consultation with provincial government and concerned local level body before doing something related to environment that affect or support to environment. The Act has defined 'local community' in article 10 (7) as 'people living in and around the said area' and the area can be given to manage by local community. The Act has denied to recognize indigenous peoples as per ILO C. No 169 and the UNDRIP. Local community does not necessarily represent indigenous peoples.

Forest Act, 2049 (1992 AD)

Forest Act has provisioned seven types of forests based on forest management. Of the seven types-national forests (government managed forests), protected forest areas, community forests, leasehold forests, religious forests and private forests – all the forests are under the ownership of Nepal government except private forests. This Act does not have provision for the IPs in line with the ILO Convention No. 169 and the UNDRIP.

Water Resource Act, 2049 (1992 AD)

The Act is made in line with the concept that the ownership of land and resources (including water resource) fall under the ownership of Nepal government. However the Article 3 of this Act states that the ownership of water resources within Nepal has in Nepal government's possession. This Act denied the rights of the IPs over natural resources (including water) as per ILO Convention No. 169 and the UNDRIP.

Compulsory and Free Education Act, 2075 (2018 AD)

This Act was introduced in 2018 under the provision of the 2015 constitution. This Act ensured the right of various communities to get education through their mother tongue⁵⁸, and also ensured to run educational institutions through their mother tongue. But sadly, the Act provisioned that government's responsibility for running such

⁵⁸ *Compulsory and Free Education Act, Art. 3.*

institutions is seen the word used as 'could support' means not sure of support. The word used as 'could support' and 'support' to the national language having equal status is a serious discrimination.

Caste based Discrimination and untouchability (Offence and Punishment) Act 2075 (2018 AD)

This Act talks about caste based discrimination and untouchability whose translation in Nepali language is made as '*Jatiya Bived ra Chhuwachhu*'. Caste based discrimination and *Jatiya Bived* (racial discrimination) are two different things. Caste is product of Hindu caste (*Varna*) system where as *Jatiya* or racial is universal term for different groups of people in terms of language, culture, tradition, custom, belief and life system. The Act of 2011 has defined 'caste based discrimination and untouchability' as 'any one commits or cause to commit any act on the ground of custom, tradition, religion, culture, rituals, caste, race, descent, community or occupation shall be deemed to have committed caste-based discrimination and untouchability'.⁵⁹ This Act is focused on caste based discrimination rather racial discrimination. The IPs do not fall under the Caste group and they are suffering of racial discrimination not caste based discrimination. To deal the IPs with Act by the government officials is not valid and logical.

Social Security Act, 2075 (2017 AD)

This Act was promulgated in 2018. The Act has ensured the social security rights of economically poor, helpless individual, helpless single women, disables and children etc. It has also included the social security rights of endangered category of 10 IPs. This Act deals with those people only for social security allowance. The government provides NPR 2,000 per month as social security allowances to these 10 IPs'.

⁵⁹ *Caste based Discrimination and untouchability (Offence and Punishment) Act 2075 (2018 AD), Art. 4.*

Nepal Civil Service Act, 2049 (1993 AD)

This Act was promulgated in 1993 and amended third time in 2013. In the second amendment the sub-article under the Article 7 was inserted which states 'fulfillment of vacancy in civil service' that reserved 45% seats to various groups including indigenous peoples. Considering 45% as 100%, seats are divided into Women (33%), Adibasi / Janajati (indigenous nationalities)-27%, Madhesi (22%), Dalit (9%), Disables (5%) and backward area (4%).

National Foundation for the Development of Indigenous Nationalities Act, 2058 (2002 AD)

National Foundation for the Development of Indigenous Nationalities (NFDIN), an autonomous institution, has been established in accordance with the National Foundation for the Development of Indigenous Nationalities Act, 2002. This institution is basically a programmatic institution and it covers social, economic, cultural, educational, traditional knowledge and skills, language and script, history and religion aspects of indigenous nationalities. This Act does not talk about the rights of IPs. The Act also defines indigenous nationalities in Nepal and listed 59 IPs groups.

Indigenous peoples related Acts at Provincial and local level

The constitution of Nepal has divided the power domain into federal, province and local level. The division of power domain already made complex for the rights of the IPs at the time of restructuring the state that violated the constitution's Article 56 (5). The Article 56 (5) states 'special, protected and autonomous regions may be created for socio-cultural protection or economic development according to Federal law'. This provision and the state restructuring of local level are conflicted each other. It is supposed to be made federal law first for the implementation of article 56 (5) of the constitution and then restructuring of state at local level. Federal law could declare special, protected and autonomous areas/regions for the IPs so that they could exercise autonomy, self-rule, self-determined development including other rights.

Despite above mentioned speculation, some of the things are under the power domain of province and local level that could be used for enjoying the rights of the IPs in line with the ILO Convention No. 169 and the UNDRIP. Of them, the most important one is 'protection and use of language, culture, script, fine arts and religion' which is under the power domain of province, and 'preservation and development of language, culture and fine arts' under the power domain of local level. However, no laws have been introduced on this at provinces (Pradesh) and local levels (Municipalities and Rural Municipalities) to date. But, few municipalities have declared some languages as official language for the use of the concerned municipalities.

Policies of Nepal government

In Nepal government's website, there are nearly 90 policies on various subjects and issues. All policies are not equally relevant to the IPs, ILO Convention No. 169 and the UNDRIP. Of them, a few policies such as climate change, forest, gender equality and social inclusion, hydro-electric development, local infrastructure development, national Cultural, national intellectual property, national land use, and rangeland policy have been reviewed in the course of preparing this report.

The climate change policy, 2010 AD has 68 points policies which stipulated goals to achieve till 2013. The policy has not been reformed after 2010. These policies have included all things directly and indirectly related to climate change. The IPs are affected severely of climate change and are more vulnerable than others in terms from flood, changes in climate and production of food and fruits. A few programs and actions have been accommodated in the climate change policies and very few indigenous peoples are benefited from the actions.

In Nepal, it's irony that the IPs saved and developed forests under their control and ownership which later nationalised by the state or brought under the control of the state, and then redistributed to others in the name of community forest. The forest policy, 2014 AD is based on this concept. Of the forest categories – state

controlled forests, protected forests, leasehold forests, private forests, religious forests and community forests – there are more than 17 thousand community forests in which people other than the IPs have controlled. The forest policy, 2071 BS has 7 points policy that does not follow and include the aspirations of the ILO Convention No. 169 and the UNDRIP.

The land use policy, 2015 was introduced after reviewing the land use policy, 2013. The policy has basically categorised or classified the entire land of Nepal into 11 categories or zones and put forwarded 15 points policies. According to this policy, there are lands of Agricultural Zone, Residential Zone, Commercial Zone, Industrial Zone, Mines and Minerals Zone, Cultural and Archaeological Zone, River and Lake-Reservoir Zones, Forest Zones, Public Use and Open Space Zone, Building Materials (Stone, Sands, Concrete), Excavation Zone and Other Zones as specified as per necessity. This policy does not follow and include the spirit of ILO Convention No. 169 and the UNDRIP. Cultural and Archaeological land does not carry the spirit of Traditional/customary lands of indigenous peoples.

The Gender Equality and Social Inclusion Policy, 2009 has stipulated five objectives to make gender equality and social inclusion of women, children, poor and deprived communities in various fields, and to strengthen them through enhancing their capacity. It has five points policy for gender equality and social inclusion such as proportionate development by implementing programs for backward class, communities and regions, empowering women, children, dalit, indigenous nationalities, madhesi, muslim, economical poor and backward class and so on. This policy is not refined as per current needs to address diversity within women and ensure representation of IPs women.

Hydro-electricity Development Policy 2002 is promulgated before Nepal has ratified the ILO Convention No. 169 and sign the UNDRIP. After 2002, the situation of the country has been changed very much. Hence, the policy does not address traditional lands and free, prior and informed consent of indigenous peoples as well as local communities while implementing hydro-power development projects.

Local Infrastructure Development Policy, 2004 is yet to be reformed to contextualise in the changed context. It has five point policies. In the context of establishment of three layers of government and clear cut power domain for each level, the relevancy of policies is under the question. Likewise, out of 90 policies listed by Nepal government, majority of them are already became irrelevant and needed to be refined.

National Cultural Policy, 2010 is a policy brought after promulgation of the interim constitution. Hence, the policy has included and incorporated the spirit of peoples' movement of 2006. The policy has attributed the diversity of culture in Nepal and their protection and promotion. The policy has committed to refine the laws related to culture in line with the norms of the ILO Convention No. 169 and respect of cultural diversity and to introduce new laws as the per need of time. This policy has stressed to strengthen the structures of the State bodies which are responsible for protecting and managing cultural heritage. Likewise, the policy has committed to carry out ethnicity wise (nation wise) study and collect data of all cultures. In the same spirit, the policy paper has formulated 20 points policies on culture.

National Intellectual Property Policy, 2017 was introduced after promulgation of the 2015 Constitution. The concept of intellectual property was brought in order to support for economic, social and cultural development. The policy is intended to explain and regulate the intellectual property rights provisioned in the Article 25 of the Constitution as fundamental right. It is regarded as the refined version of the 1936 policy which was called 'Patent Design and Trade Mark Law'. Over the period of 60-70 years, Nepal became the member of World Intellectual Property Organization (WIPO), state party of Paris Convention for the Protection of Industrial Property, 1883, member of World Trade Organization (WTO) and state party to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) and state party to the Convention on Biological Diversity (CBD) 1992. The policy paid attention to all international legal and moral obligations.

The Rangeland Policy, 2011 states "the policy was essential for the scientific management and protection of rangeland, and to use for sustainable development". This is another irony that state seized such rangeland including pasture land from the control and ownership of the IPs and, many of them declared as protected areas (conservation areas and wild life reserves) and some of them handed over to community forest user groups. The community forest users groups and protected area authorities have control over pasture land and medicinal plants collection from rangeland. As a result, animal husbandry went down and livelihood of the IPs including local people fall down in danger and forced to displace from the areas. This policy paper mentions three point policy that tries to protect customary use of biological resources in accordance with traditional cultural practices in line with CBD. It has also provisioned for introducing of laws in order to give responsibility and rights of protection, conservation and use of rangeland to local communities. Likewise, it has committed to protect the facilities of traditional pasture land within rangeland and community forest traditionally used by farmers who have been doing animal husbandry. Policy 2 states about development and expand industries based on rangeland. Similarly, policy three provisioned to support for maintaining ecological balance by protecting and conserving the biological diversity of rangeland and by using scientific and sustainable way.

Government's Periodic Plan

The development plan of Nepal has taken major turns in 5th, 8th and Three Years Interim Plan 2064-66 (2007/08-2009/10). The fifth periodic plan introduced regional development for the first time, and the eighth plan introduced strengthening of democratic rights as well as promotion of privatisation and liberalisation. The Three Years Interim Plan 2007/08-2009/10 introduced inclusive development. The 14th plan included new term "highly marginalised" and "marginalised" class and communities. The term "marginalised" is also accepted by the constitution of Nepal declared. The constitution defined the term "marginalised" as the people who have been forced to fall backward politically, economically and

socially, those who have been unable to avail services because of discrimination and harassment, and because of geographical disconnection, and those communities whose standard of living has been below the legal standard as specified in the Human Development Indicators.

Three Years Interim Plan 2064/65-66/67 (2007/08-2009/10):

This is taken as the 11th plan. Peace Process and inclusive development was included in the interim plan by the National Planning Commission (NPC) in 2007. In the plan NPC planned for indigenous peoples' development under the heading of 'Gender Mainstreaming and Inclusion'. The objective of the plan was to bring change in the lives of people by reducing unemployment, poverty and inequality contributing to sustainable peace. The objective under the section 'Human Rights' in the plan of Social Justice and Inclusion' was to improve the condition of human rights of vulnerable, backward individual and communities as per the international commitment done by the state, and to alleviate poverty and all kinds of social and economic discrimination, violence, exploitation and misbehavior. Similarly, the plan was intended to develop human right culture by controlling the violation of human rights.

The objective under the heading 'Indigenous Nationalities' in the chapter 'Gender Mainstreaming and Inclusive Development' of the plan was to preserve culture and economic development of indigenous nationalities by enhancing their access in administration, social, and economic sources and means. That had made 4 expected targets such as improvement in human development index of indigenous peoples by 10%, improvement in empowerment of indigenous peoples by 10%, proportional representation of indigenous peoples in constitution assembly/legislative parliament, and improvement in gender development index of indigenous women by 10%.

In order to meet the expected targets, policies and strategies were set accordingly which seems very big step in the development plan of Nepal. The major **strategies** taken were reform of existing

state structure, laws and policies that promote interest of indigenous nationalities, empowerment of traditional and indigenous organisations, minimisation of poverty, physical infrastructure development in their areas, human resources development by applying the principle of positive discrimination, and preservation and promotion of indigenous nationalities language, religion and culture. Major **policies** had been adopted such as tri-language policy and multi-lingual education, proportionate representation of indigenous women, capacity enhancement of traditional institutions of indigenous nationalities, targeted program for the endangered, highly marginalised and marginalised indigenous nationalities, access to natural resources, budget allocation at local level to promote their economy and cultural values, preparation of master plan for the preservation and promotion of their languages, cultures and traditional etc. Various programs had been designed accordingly. However, very little progresses were made during the period. The plan was good in paper but results were not satisfactory. Ratification of the Indigenous and Tribal Peoples Convention no. 169, law for proportionate representation in constituent assembly/ legislative parliament and budget allocation at local were major satisfactory achievements of the plan.

Three Years Plan 2067/68-2069/70 (2010/11-2012/13):

This is taken as the 12th plan. This plan also followed inclusive and equality based development pattern for sustainable peace in the country. This plan talked about 'Culture' as one of the sub-area. Two of the objectives under this heading were set to develop and conserve various languages, literature, music and arts according to inclusive policy adopted by the state and to support in the national integrity by protecting, recognising, conserving and developing different languages and dialects of indigenous nationalities continuing the national unity. Accordingly, the strategies and policies were made to achieve the objectives. Likewise, the plan had an area of 'Peace, Rehabilitation and Inclusive Development' under which there was a topic of 'inclusion'. Inclusions of various social groups were planned. Under that the development of 'Indigenous Nationalities' were accommodated. The main

objective of the plan for 'indigenous nationalities' was to ensure justifiable access of indigenous nationalities in social, economic, human and cultural rights, and in opportunities by bringing them into the mainstream. The main strategy of the plan was to mainstream them and ensure justifiable representation. The policies and programs were more focused on endangered, highly marginalised and marginalised indigenous nationalities.

The 13th plan (2070/71-2072/73 BS or 2013/14-2015/16):

The main goal of the plan was to decrease poverty to 18%. This plan also continued the concept of inclusive development though it removed the specific plan for particular group such as indigenous nationalities. It put all the groups such as Women, Dalit, Indigenous nationalities, Muslim community, Madhesi community, backward class and communities in one basket of inclusion and planned accordingly in overall manners. The plan changed the structure slightly and put the inclusion under 'Gender Equality, Inclusion and Mainstreaming' which was accommodated under chapter 'Cross-cutting Development Policies'. The objective of inclusion was to uplift those groups economically, socially and culturally by protecting and preserving their political, economical, social, human, cultural and linguistic rights. The strategies and policies were set accordingly such as running of targeted program, empowerment etc.

The 14th Plan (2073/74-2075/76 BS or 2016/17-2018/19):

This plan too followed the same planning structure as of the 13th plan. Gender equality, inclusion and mainstreaming are included under the chapter 'Cross-cutting Development Policies'. The plan for endangered, highly marginalised and marginalised nationalities mentioned separately. The main objective was to ensure access in means and resources, service and facilities of those communities. It has continued the strategies and policies of 13th plan.

Now, the process of 15th five years plan is already started. Concept paper of the 15th plan is already floated and consultation is being done. The National Planning Commission (NPC) is the apex

advisory body of the Government of Nepal for formulating a national vision, periodic plans and policies for development. Its structure and function is influenced by the notion of centralised and unitary state. Country is already under the federal structure and power domain has been shared into three layers – federal, province and local level. Hence, the restructuring of National Planning Commission (NPC) has already been an issue. Though the restructuring issue is not sorted out, the NPC has floated a concept paper of the 15th five years plan that has followed the old planning structure. Not only 15th plan, all the periodic plans, except 11th plan, have not respected ILO Convention No.169 and the UNDRIP.

Fourth National Human Rights Action Plan of Nepal Government (2014/15-2018/19)

Nepal government has made fourth national human rights action plan for 2014/15 to 2018/19. The national action plan in Nepal was started from 2061/62 BS (2004/5) in order to protect and promote human rights based on UDHR, international treaties to which Nepal is a state party to, and the rights ensured by the existing laws of Nepal. The fourth national action plan has set a vision of inclusive representation developing human rights culture in government services. The plan has four objectives and five strategies. Four objectives are: to ensure practically the commitments of human rights; to implement national and international responsibilities; to join human rights structurally and functionally with the agendas of development and to develop the culture of human rights.

In order to fulfill those objectives, the fourth action plan envisioned the strategies: to make and refine the existing laws related to human rights by assessing all of them; to strengthen national human rights institutions in order to protect human rights; to incorporate human rights structurally and functionally to the periodic development plan of the country; to develop human rights as culture by removing the existing obstruction in order to respect, protect and promote the human rights, and to reform and strengthen the laws implementing bodies.

With these strategies, the national action plan identified 18 themes for the protection and promotion of human rights. Those 18 themes are:

1. Education
2. Health, nutrition and population
3. Labor and employment
4. Culture
5. Legal reform and justice administration (building laws, reform and court)
6. Environment and sustainable development
7. Women, disables, senior citizens, gender and third gender
8. Implementation of international responsibility of Nepal
9. Food security (Food sovereignty)
10. Transitional justice and conflict victim
11. Human Rights education
12. Inclusive development
 - a. Indigenous peoples/Janajati and marginalized class
 - b. Dalit
 - c. Backward class/region
 - d. Badi people
13. Children (Protection of children's rights, development and justice to children)
14. Housing / shelter (City development and housing)
15. Social service and security (drinking water, electricity, sanitation, drainage, use of natural resources, cooperative, poverty, sports, road use etc)
16. Implementation of supreme court verdicts and implementation of NHRC's recommendation)
17. Custody and Jails reform
18. Institutional strengthening

For the implementation of human rights national action plan, the main responsible agencies, assistance agencies, responsible agency for monitoring, limitation and risk aspect of action plan are also identified. The actions to be done, responsible agencies, assistance agencies, agency for monitoring, limitation, implementation time frame and risk aspect of action plan are given.

The action plan stipulated the programs to address issues relating the human rights on the above mentioned 18 themes. For the case of indigenous peoples, the plan has identified 24 problems and committed to assess all the existing laws related to indigenous peoples, and to make new laws. Similarly, the plan has committed to approve already made national action plan (national action plan for the implementation of ILO Convention No. 169) from the government, and to refine existing laws based on the provisions of ILO c. no 169. The action plan has committed to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) by making / designing programs. The action plan has made ministry-wise plan and also plan for indigenous peoples separately (see annex 4). Likewise, the plan has made numerous programs in each theme.

Policy commitment and implementation of Nepal government from 2008 onwards:

Policy commitment Commitments on international instruments

Nepal has ratified several international human rights instruments which are legally binding. Of them, the instruments legally and morally binding related to indigenous peoples are *International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)*, *Indigenous and Tribal Peoples Convention no. 169*, *International Covenant on Civil and Political Rights 1966*, *International Covenant on Economic, Social and Cultural Rights 1966*, *Convention on Biological Diversity, 1992*, *Convention on the Rights of Child 1989*, *Convention on the Elimination of All forms of Discrimination Against Women 1979*, *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007*, and *UDHR*. Nepal has to follow and implement these international instruments by reflecting them in the constitution, laws, policies and periodic plans.

Constitutional commitments

The constitution of Nepal spelt out few rights of indigenous peoples in line with the international laws but prohibits many rights of

indigenous peoples by negating the provisions of international laws especially ILO Convention No. 169 and the ICERD, and the constitution also discarded the spirit of the UNDRIP. Though the constitution has not specified the rights for indigenous peoples in most cases, indigenous peoples can enjoy some rights as the citizen of Nepal. Hence, constitutional rights of indigenous peoples can be categorised as specified rights and general rights that are provisioned for all citizens.

The specified constitutional rights of indigenous peoples are (i) IPs right to participate in state organs (federal and provincial legislatures) on the basis of inclusive principles (Articles 42 and 283); (ii) Indigenous Peoples Commission (Article 261) and (vii) Tharu Commission (Article 263) for the protection of rights and interests of indigenous peoples, including Tharus; (iii) IPs right to represent proportionately in the house of representatives through political parties (Article 84). Besides these, state policy regarding social justice and inclusion provisions/commits to ensure the rights of indigenous nationalities to lead a dignified life with their respective identities, and make them participate in decision making processes that concern them, and preserve and maintain the traditional knowledge, skill, experience, culture and social practices of indigenous nationalities and local communities (Article 51 sub-article (J)).

The general constitutional rights for all citizens that can be used importantly by indigenous peoples are (i) right to non-discrimination on the basis of ethnicity, language, religion, gender, social origin, physical disability or region (Article 18); (ii) right to adhere, practice, and protect one's own religion as per his/her faith and defend and run religious sites and trusts (Article 26); (iii) right to free, compulsory, basic education and free education up to the secondary level and right to education in mother tongue and run educational institutions (Article 31); (iv) right to use own language and right to preserve and promote own language, script, culture, cultural civilization and heritage (Article 32). (v) Economically very poor and communities on the verge of extinction have right to special opportunity and facilities in the areas of education, health, housing, employment, food and social security (Article 42 and 261) and so on.

Commitments by various Acts

In view of indigenous peoples rights, some laws/Acts such as land, environmental protection, forest, water resource, compulsory and free education, development company, racial discrimination prohibition, NFDIN etc are important for them. The *Land Act with 7th amendment, 2075 (2018 AD)* has no commitment on the rights of indigenous peoples over lands, territories and resources. The *Environment Protection Act with first amendment, 2075 (2018 AD)* has commitment to do or make to do the 'Environmental Impact Assessment (EIA)'. There is nothing commitment in this act on the rights of indigenous peoples. Same intension can be found in *Forest Act, 2049 (1992)* and *Water Resource Act, 2049 (1992 AD)*. There are national forests (government managed forests), protected forest areas, community forests, leasehold forests, religious forests and private forests as per the forest act. The act has committed to include indigenous peoples in community forest users group. *Compulsory and Free Education Act, 2075 (2018)* has ensured the right of various communities to get education through their mother tongue (Article 3), and it has also ensured to run education institutions through their mother tongue. Similarly, *Caste based Discrimination and Untouchability (Offence and Punishment) Act 2075 (2018)* defines caste based discrimination as 'any one commits or cause to commit any act on the ground of custom, tradition, religion, culture, rituals, caste, race, descent, community or occupation shall be deemed to have committed caste-based discrimination and untouchability' (Article 4), and the act /law also commits to punish them who discriminate any one on these bases.

Likewise, *Social Security Act, 2075 (2017)* has ensured the social security rights of economically poor, helpless individual, helpless single women, disables and children etc. It has also included the social security rights of endangered category of 10 indigenous peoples. This Act deals with those people only for social security allowance. The *National Foundation for the Development of Indigenous Nationalities Act, 2058 (2002)* designs programs and implement them on social, economic, cultural, educational, traditional knowledge and skills, language and script, history and religion

aspects of indigenous nationalities. Sadly, no laws have been made on this in province (Pradesh) and local level (Municipality and rural municipalities) till to date except a few municipalities have declared some languages as official language for the concerned municipalities. The *Nepal Civil Service Act, 1993* (second amendment) has ensured 45% seats reserved for women, indigenous nationalities, madhesi, dalit, disables and backward area.

Similarly, *Country Civil (Code) Act 2017* that makes discrimination punishable by three years imprisonment or thirty thousand rupees or both (*Country Panel Code/Act 2017, Section 160*). Three to seven years imprisonment for the crime of keeping someone as bonded laborer (*Ibid, Section 164*). Recognize customary laws relating to marriage, particularly in relation to certain categories of incestuous relation (*Section 70.2.*); Recognize communal/collective land and building or other properties as communal/collective property (*Section 301*) with ensured entitlement (*Section 303.2.*); Recognize documents prepared in languages other than Nepali language as evidence to be presented at courts (*Country Civil Procedural Code, 2017, Sections 273 and 274*); Inhuman or humiliating treatment; hate on ethnic, religious and cultural communities as crimes (*Country Penal code 2017, Section 38.m and 38.t*); and interference on other's social customs also a crime liable to one year imprisonment or ten thousand rupees or both (*Ibid, Section 165*); Reduction in penalty on cow/ox slaughtering from 12 years imprisonment to maximum 3 years imprisonment (*Ibid, Section 289*); and the court at any level should provide opportunity for reconciliation or compromise between the parties before giving any verdict (*Country Civil Procedural Act, 2017, Section 13*).

Commitments by some policy papers

Nepal government has expressed its policy commitments through periodic plans and various policy documents. It has listed 90 policies on various subjects and issues. All policies are not equally relevant to IPs. With regard to indigenous peoples rights the convention on indigenous and tribal peoples 1987 (ILO Convention No. 169) and the UNDRIP, climate change policy, forest policy, gender equality

and social inclusion policy, hydro-electric development policy, local infrastructure development policy, national Cultural Policy, national intellectual property policy, national land use policy, and rangeland policy are important. Sadly, the above mentioned policies such as climate change policy, forest policy, hydro-electric development policy, national intellectual property policy and local infrastructure development policy has mentioned nothing on the rights of indigenous peoples specifically.

The *National Cultural Policy, 2067 (2010)* has committed to reform the laws related to culture in line with norms and respect of cultural diversity and to introduce new laws as per needed. This policy has stressed to strengthen the structures of the bodies which are responsible for protecting and managing cultural heritage and to build new structures as per need. Likewise, the policy has committed to carry out ethnicity wise (nation wise) study and take data of all cultures. The *Rangeland Policy, 2068 (2011)* has tried to protect customary use of biological resources in accordance with traditional cultural practices in line with CBD, 1992. It has also mentioned that to make laws in order to give responsibility and rights of protection, conservation and use of rangeland to local communities. Likewise, it has committed to protect the facilities of traditional pasture land within rangeland and community forest traditionally used by farmers who have been doing animal husbandry.

Commitments by some periodic plans.

The *Fourth National Human Rights Action Plan of Nepal Government (2014/15-2018/19)* accommodated programs to address issues relating to human rights under the above mentioned 18 themes. For the case of indigenous peoples, the plan has committed to assess all the existing laws related to indigenous peoples, and to make new laws. Similarly, the plan has committed to approve already made national action plan (national action plan for the implementation of ILO Convention No. 169) from the government, and to review existing laws based on the provisions of ILO C. No 169. The action plan has committed to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

by making /designing programs. Likewise, the plan has made numerous programs in each theme.

Three Years Interim Plan 2064/65-66/67 (2007/08-2009/10) had accommodated plans for indigenous nationalities under the 'Gender Mainstreaming and Inclusive Development' whose objective was to preserve the culture and economic development of indigenous nationalities by enhancing their access in administration, social, and economic sources and means. That had made four expected targets such as improvement in human development index of indigenous peoples by 10%, improvement in empowerment of indigenous peoples by 10%, proportionate representation of indigenous peoples in constitution assembly/legislative parliament, and improvement in gender development index of indigenous women by 10%. The major **strategies** were such as reform of existing state structure, laws and policies that promote interest of indigenous nationalities, empowerment of traditional and indigenous organizations, minimization of poverty, physical infrastructure development in their areas, human resources development by applying the principle of positive discrimination, and preservation and promotion of indigenous nationalities language, religion and culture. Major **policies** adopted were tri-language policy and multi-lingual education, proportionate representation of indigenous women, capacity enhancement of traditional institutions of indigenous nationalities, targeted program for endangered, highly marginalized and marginalized indigenous nationalities, access to natural resources, budget allocation at local level to promote their economy and cultural values, making master plan for the preservation and promotion of their languages, cultures and traditional written forms etc.

Three Years Plan 2067/68-2069/70 (2010/11-2012/13) planned for Indigenous Nationalities with the objective to ensure justifiable access of indigenous nationalities in social, economic, human and cultural rights, and in opportunities by bringing them into the mainstream. The main strategy of the plan was to mainstream them and ensure just representation. The policies and programs were more focused on endangered, highly marginalized and marginalized indigenous nationalities.

The 13th plan (2070/71-2072/73 BS or 2013/14-2015/16) put Women, Dalit, Indigenous nationalities, Muslim community, Madhesi community, backward class and communities in one basket of inclusion and planned accordingly in an overall manner. The objective of the plan was to uplift these groups economically, socially and culturally by protecting and preserving their political, economical, social, human, cultural and linguistic rights. The strategies and policies were set accordingly such as running of targeted program, empowerment etc. Likewise, the *14th Plan (2073/74-2075/76 BS or 2016/17-2018/19)* planned to ensure access in means and resources, service and facilities.

Status of implementation:

The process of policy commitment implementation at country level and peoples' level is a complicated process. Implementation of commitments on international instruments starts from constitution or reflection of instruments in the constitution, then laws/Acts are made and finally implementation on the ground.

The constitution of Nepal has spelt out few rights of indigenous peoples in line with international instruments ratified by Nepal. The constitution has specified some rights of IPs such as (i) IPs right to participate in state organs (of federal and province) on the basis of inclusive principles (Articles 42 and 283);(ii) Indigenous Peoples Commission (Article 261) and (vii) Tharu Commission (Article 263) for the protection of rights and interests of indigenous peoples, including Tharus; (iii) IPs right to represent proportionately in the house of representatives through political parties (Article 84). Besides these, state policy regarding social justice and inclusion provisions / commits to ensure the rights of indigenous nationalities to lead a dignified life with their respective identities, and make them participate in decision making processes that concern them, and preserve and maintain the traditional knowledge, skill, experience, culture and social practices of indigenous nationalities and local communities (Article 51 sub-article (J)).

Talking to the implementation of international instruments, except

a few cases, implementation is being done as per the provisions of the constitution. Some policies and periodic plans such as Human Rights Plan of Nepal government have reiterated to review all the laws and refine in line with *Convention on Indigenous and Tribal Peoples 1987 (ILO C. No 169)* and *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)* though that is not happening since 2007 till to date. Similarly, the National Action Plan to implement ILO c. no 169 is not approved by council of ministers (cabinet of the government).

Some of the provisions of the constitution as mentioned above are being implemented. The Nepal Civil Service Act, 1993 has already allocated 45% seats to women, indigenous peoples, madhesi, dalit, disabls and backward area. Considering 45% as 100%, indigenous peoples are getting 27% seats in civil services though it is not enough on the basis of population. For constitutional provision of article 84, House of Representatives Election Act 2074 (2017) is already made which has legally obliged the state to represent 35% indigenous nationalities in the house of representatives and provincial assemblies through proportionate representation election system though it has not compelled for the seats of first past the post election system. Likewise, indigenous nationalities commission act is already made but the commission is not formed till to date. There is state policy in article 51 of the constitution. The sub-article (j) 'social justice and inclusion' of article 51 commits to follow the rights of indigenous nationalities to lead a dignified life with their respective identities, and make them participate in decision making processes that concern them, and preserve and maintain the traditional knowledge, skill, experience, culture and social practices of indigenous nationalities and local communities. The commitment is not translated into laws and implementation.

Current status (as per community survey)

The current status of indigenous peoples on the following matter is assessed based on the community survey carried out by LAHURNIP in Nepal. This survey data also indicates the implementation status of international instruments, policy commitment and laws.

Discrimination (IPs men and women)

In Nepal, some sections of people are historically discriminated since the time of so called unification. The discrimination based on color, nationality, origin, gender, ethnicity and culture is still continued in Nepal. Indigenous peoples have been continually facing discrimination since a long time from history to the present time. They have been facing discrimination legally and practically. Constitution of Nepal has discriminated in recognizing various ethnic-cultural human groups. For example, KhasArya people are recognized by the constitution where other people or ethnic-cultural groups including indigenous nationalities are recognized by acts. Constitution has made cow as national animal and, laws have prohibited slaughtering cow, if it happens so, the slaughter is punished. This is conflicting to the culture of some sections of indigenous peoples. Those sections of indigenous peoples need to slaughter cow to worship their god/goddess and to celebrate their culture. Likewise, there is discrimination in provisioning and making structures of various constitutional commissions. For example, the rights and duties of some commissions such as Commission on Investigation of Abuse of Authority, Public Service Commission, Election Commission, National Human Rights Commission, Natural Resource and Financial Commission, National Women's Commission, National Dalit Commission and National Inclusive Commission are provisioned in the constitution where the rights and duties of Indigenous Nationalities Commission, Tharu Commission, Muslim Commission and Madhesi Commission is mentioned will be as per the federal law. The attitudinal discrimination at practical level is highly prevalence in government offices of Nepal. KhasArya people have dominance in government offices having share of 83.9%. This dominance and the attitude have created procedural harassment and discrimination to people of other ethnic groups in various official matters.

While talking to discrimination, indigenous women have been facing multiple forms of-discrimination by state/government, mainstream society (women and men) and indigenous men. The policy of absolute equality creates injustice and inequality in practice.

Women from historically discriminated indigenous peoples can't compete with women from mainstream society or ruler community. The state has discriminated indigenous women by putting all women in a basket and following the policy of absolute equality to all. Likewise, the State Policies do not accept plural form of society and culture. The state policies related to culture talk about social and cultural transformation to healthy and civilized culture⁶⁰. These provisions tend to have a mono-culture and society.

The community survey among 7 IPs of Nepal held in 2017 found that 60% participants responded three out of five indigenous women face discrimination, and 40% responded three out of five indigenous men face discrimination being identity as an indigenous person. From gender perspective, 30% respondents told that three in every five indigenous women experience gender discrimination, 40% told that three out of five indigenous women face discrimination by age and 30% responded discrimination by income. Similarly, 20% responded that three out of five indigenous men face gender discrimination, 20% told discrimination by age and 50% by income. There is big discrimination in budget allocation to IPs language development. For the fiscal year 2017/18, Nepal government allocated 9.9% budget (NPR 126 billion) for education. Out of this budget, even 1% budget is not allocated for indigenous peoples' language and education development. Another remarkable discrimination is in culture. Nepal government has policy to give official holidays to all officially working people for Hindu *Dashain* and *Tihar* festival, and also promotes and encourages other people to celebrate by providing *Dashain* festival bonus equal to one month salary just before starting this festival. For others' festival, only the concerned personnel of concerned community get holiday without festival bonus. Similarly, government has allocated 16 billion rupees (in the fiscal year of 2017/18) for master plan of *Pashupati* area and wider *Lumbini* area master plan but nothing is allocated for the belief centres of indigenous peoples. At present, there is no discrimination to indigenous peoples in the recognition of

⁶⁰ *The constitution of Nepal 2015, article 51 (b) (1) and article 51 (c) (1)*

citizenship. One thing is clear that indigenous peoples – some sections – do not value the citizenship that is why 20% respondents in the community survey told that three out of five IPs value or recognize citizenship where 40% respondents told that three out of five women value or recognize citizenship.

In the past, some section of Indigenous peoples could not have got voting rights in the election due to citizenship problem. There was a great discrimination to them in taking citizenship because state laws had various criteria for providing citizenship that could not be fulfilled by individual of indigenous community. During the community survey, 40% respondents told that three out of five IPs have the possibility to vote in the election of national and local government. This shows that there is still problem in voting rights for indigenous peoples. Talking to the representation rights of IPs, three kinds of issues: aggregated approach, segregated approach and political party approach (representation of IPs by political parties in the name of IPs) – that discriminate them in their true representation. During the community survey, 50% participants told that they have representation /seats in the national parliament and 100% respondents said they have representation in local government bodies. Only 40% participants told that they have representation in national parliament, and 60% told yes in local government bodies. This shows that all IPs have no seats and representation that needs segregated approach for representation and not from political parties.

Cross-border contact for the same indigenous people is not an issue in Nepal. There is no restriction and discrimination for cross-border contact. Hence, 100% community survey respondents told that there is no restriction in cross-border contact.

Talking to the access to media of indigenous peoples, there is partiality and discrimination in delivering thoughts, ideas and news of indigenous peoples by national level mainstream media. Those media always support and deliver to the thought, ideas and news of mainstream /dominant society and stand against of indigenous peoples. This has happened because the people from mainstream

society have domination, capture and control over the media of all kinds including state control media. A very few media that can be counted one or two are operated by the individuals from indigenous community. Those media (FMs, TV and print media) have been facing problems created by state policies and procedures. This is also reflected in the community survey, 90-100% participants responded that indigenous peoples have no access to any television and radio broadcasting, news paper or magazines and internet access. The participants (70% respondents) also told that there is a little access of indigenous peoples in indigenous media. With regard to access to media especially state owned media in indigenous language, 100% respondents of community survey told 'no accesses'. Similarly, 80% respondents told that there is no internet access for indigenous communities at home in rural areas.

Collective rights of IPs and recognition as legal entity

Being indigenous peoples/distinct peoples they have collective rights including individual rights. Collective right is the fundamental necessities of indigenous community that protect and contribute to protecting their common language, common culture, common life and belief system. Hence, the rights over traditional/customary lands (lands, territories and natural resources), autonomy, self-rule, right to self-determination, national identity, self-determined development, practices of customary laws and collective life pattern are collective rights of indigenous peoples.

Collective rights of indigenous peoples and recognizing them as legal entity is very crucial for indigenous peoples. Nepal and Nepal government has already accepted and committed to this collective right of indigenous peoples by ratifying the convention on indigenous and tribal peoples 1987 (ILO Convention No. 169) in 2007 and committed to implement UNDRIP by voting in favor of the declaration. The implementation of this right in Nepal is very slow, and in some cases, state and state government of Nepal has violated the provisions of the convention and declaration by making conflicting provisions in the constitution and laws. Because of this reason, perhaps, during the community survey, 90% participants

and respondents told that the state has not recognized indigenous peoples as distinct people with collective rights. Only 10% participants told 'yes'. Nepal state has recognized 59 indigenous peoples as per the national foundation for the development of indigenous nationalities act, 2002 that regulates NFDIN, an autonomous institution on programmatic sector.

The aggregate understanding of rights over lands, territories and resources is traditional/customary lands of indigenous peoples. In another words, this is called 'ancestral domain' (*That Thalo* in Nepali). Traditional or customary lands of indigenous peoples is the lands to which a particular indigenous peoples (community and individuals) is connected spiritually, culturally, socially, economically, ecologically, psychologically and ontologically (life system). In Nepal, the traditional lands are already destroyed by the state legally, politically and socially. At present, nearly all indigenous peoples are connected to their traditional lands only spiritually, culturally and psychologically. Indigenous peoples claim a particular area and region as their traditional land but the perception about the characteristics of the traditional lands in connection to particular indigenous peoples, at present, have been changed. The perception of traditional lands to the members and individuals of many indigenous communities remained connected spiritually, culturally and psychologically at practical ground.

There is perplexed situation with regard to the rights of indigenous peoples over lands, territories and resources. Nepal government has already accepted and committed to the rights of indigenous peoples over lands, territories and resources as per ILO Convention No. 169 and the UNDRIP. The problem and issue is that government has not made national laws and policies in accordance with the acceptance, obligation and commitments committed by the government. At practical level, these sorts of rights are not implemented in the country where indigenous peoples have been living there. Hence the IPs community members think that these rights of IPs are not recognized by the government. The reflection of such thinking can be seen in the community survey where 80% participants told that government has not recognized the rights of

indigenous peoples to lands, territories and resources. With regard to rights over lands, territories and resources, certain IPs community has treaty with the state on autonomy and traditional lands though the state denied to continue the treaty after several decades of follow and implementation. During the community survey, only 20% participants told that they (IPs community) have binding agreements in recognition of their collective right to lands and territories, and 80% participants told no agreements.

The collective rights of indigenous peoples existed in the past is now shifted to individual rights due to the aggressive effort of the then rulers. At the present scenario, each and every indigenous community's individual/family deserves individual right to land and individual gets land ownership certificate. However, the data is not available on how many indigenous individuals /families have private land. Similarly, data is not available on how many indigenous women have land registered in their names and how many indigenous couples have land in their joint names.

All the above scenarios lead to conflict for land. The Limbu indigenous peoples are raising autonomous state as per the treaty held in 1774 between Limbu leaders and the then central ruler, the king. All the indigenous peoples have been claiming autonomous areas to their ancestral domain. Not only the indigenous communities but also the whole state has experienced conflicts related to land and natural resources especially collective right vs individual right. This is also reflected in the community survey where 100% participants and respondents told that their communities have experienced conflicts related to land and resources. These conflicts are gradually moving towards claiming over natural resources and saying no use and encroachment without free prior informed consent of concerned indigenous communities. Such claiming is being done in extractive industries, infrastructure, energy related projects, establishment of parks and protected areas, illegal logging and other kinds of illegal activities etc. The community survey also reflects these facts in which 30% participants told that conflict is growing between state and indigenous communities on extractive industries. Similarly, 60% participants told that conflict

is being happened in infrastructure development, 10% told about conflict on energy related projects, 30% told about conflict on establishment of parks and protected areas, 20% told about conflict on illegal logging and other illegal activities, The participants also told about the conflict on large scale commercial land, settlers and disputes within or among indigenous communities.

Despite the claims of indigenous peoples, land grabbing, land use and resource extraction is continually being done without the free, prior and informed consent of concerned indigenous communities. Previously, government grabbed the lands of indigenous peoples and declared protected and conservation areas. At present too, the protected and conservation areas are being expanded to the territories which indigenous peoples have been using for different purposes. Lands belonging to indigenous peoples are still being encroached by state government for the purpose of military camps and military activities. This has resulted displacement of IPs and violation of rights to land, territories and resources of indigenous peoples in the one hand, and threatened wild species found in the territories. In most, cases including land encroachment of Newar indigenous peoples in the name of road expansion within Kathmandu valley, the judiciaries have not sanctioned the perpetrators. During the community survey, 70% participants told that their community is experiencing incidents of settlement, land grabbing, land use and resource extraction since 2008 without free, prior and informed consent of their communities. Similarly, 50% participants told that their communities have experienced displacement and relocated without their FPIC, and 90% told their community did not receive adequate redress, restitution and compensation. Likewise, 100% participants of the community survey told that judicial system has not sanctioned the perpetrators who have violated the rights of IPs to lands, territories and resources. Among them, 10% think that the violation of IPs rights to lands, territories and resources has also threatened wild species found in the territories. Among them, 30% told that state had declared some part of their communities' territory as protected areas without their FPIC. Activities like storage or disposal of hazardous materials, military and paramilitary activities have been done in the IPs territories without their free

prior informed consent. During the community survey, 10 % participants told yes for the storage or disposal of hazardous materials, 60% told yes about military activities on lands and 30% told yes about paramilitary activities in their territories without their FPIC. With regard to refugees or internally displaced due to conflict and violence, 20% participants told yes their community members are internally displaced.

The constitution of Nepal has described Nepal as a secular country having religious and cultural freedom (article 4). Freedom of religion and culture does not mean encroachment and interference over any religion and culture by any means. Indigenous peoples have strong belief system rather than religion. Defining or making inclusion to their traditional beliefs and belief system to any particular religion is the violation of freedom of religion. Their belief system itself directs to defining their religion means they themselves define their religion what religion they belong to. Indigenous peoples do not worship statue and they do not build religion centre such as temple, church, masque, monastery, *gurudwara* etc. They belief nature, forefathers or ancestors and omnipresent god and goddess, and they worship ancestors, mountain, hills, rivers, water, forest, certain place of forest /area of their territory, home etc related gods. Such holy and worshiping places of indigenous peoples have already been Hinduized by Hindu people by changing the name and placing statue of Hindu god as well as iron tridents around there. This process of Hinduization is still going on in the territories of indigenous peoples. This is a serious obstruction and violation of religious freedom of indigenous peoples.

In the community survey, 100% participants said that there is no restriction on cultural, religious and spiritual tradition, customs and ceremonies belonging to indigenous peoples. Similarly, 100% participants said that there is no cultural, religious and spiritual tradition, customs and ceremonies conflicting with internationally recognized human rights. Likewise, 20% participants said that IPs community has experienced to a limited and to some extent restriction in their free and privileged access to their religious and

cultural sites. In the same way, 30% participants of the community survey said yes and 70% said no on the matter that community has experienced other have taken or used community's cultural heritage, traditional knowledge and traditional cultural expression without their permission.

Traditional institution of IPs

In the past, the traditional institution of indigenous communities was a form of self-government (self-rule) and there were practices of autonomy. The head and some of the function structure were chosen by the community with a consociational method. That form of self-government or self-rule gradually changed due to external influence and state's policy imposition. Traditional institutions of indigenous peoples have been destroyed in the process of building modern state though there are traditional institutions still existed, at present too, in some indigenous peoples of Nepal. The traditional institutions which are still existed now have been changed their roles and responsibilities due to the influence of colonizing people and modern state's rules and regulation. They are also on the verge of extinction. *Bhalmansa/Matawa/Budghar* of western Tharu IPs, *Majhihadam* of Santhal IPs, *Ghampa* system of Thakali IPs, Guthi system of Newar IPs, Mukhiya system of Raute IPs are the traditional institution of indigenous peoples still existed and functional within their communities. The *Veja* of Magar, *Pantumyang* of Limbu etc are already almost dead or not functional today's context.

In the past, these traditional institutions used to govern as ruling system. All the issues of lands, territories and resources, judiciaries, cultural practices, social issues such as customary law operation, traditional knowledge and medicines, economic activities etc were decided and governed by the traditional institution. At present too, these institutions are doing some of the things but not all. Government has not recognized these traditional institutions of indigenous peoples legally and practically.

This is also reflected in the community survey. During the survey, 20% participants said that indigenous communities have, at present, no traditional institution and authorities, 40% said "yes" but to a limited extent, 20% said "yes to some extent" and 20% said "yes" there are traditional institutions and authorities fully functioning. With regard to the formation of institution in the indigenous community, 20% participants told that there is no freely chosen institution and authorities or validated by concerned IPs community. In contrast to this, 60% participants told that the traditional institution of IPs are still existed and freely chosen by the community, where 10% participants told that it is chosen by community to a limited and considerable extent. With regard to the recognition of traditional institution of IPs, only 10% participants said yes they are officially recognized, and 90% participants said no/not at all. Likewise, 60% participants told that "no" indigenous institution and authorities make their own development plan where 30% said yes to a limited extent and 10% said yes to some extent. Indigenous traditional institutions and authorities do not have registration in any body of the government. In modern state system, fund and budget supports can be given or allocated to the registered institution in government body. Hence, indigenous traditional institutions and authorities do not get public funds for their works and plans. At present, these institutions and authorities do not manage any development programs such as health, education, drinking water, sanitation etc. These institutions and authorities used to look after customary law and practices, cultural practices and disputes settle down within the community.

With regard to these things, community survey shows some mixed types of data. For example, 80% participants said that these institutions and authorities do not receive public funds for their development plan, and 20% said that they receive to a limited extent. Similarly, 50% participants said that these institutions and authorities do not manage issues relating to lands, territories and resources, where 40% said "yes to a limited extent" and 10% said "yes to some extent". Likewise, 90% participants said that these institutions and authorities do not manage health program where 10% said "yes to a limited extent". Nearly the same type of response

is in the case of education program management, 70% said no / not at all and 30% said "yes to a limited extent".

At present, indigenous traditional institutions are becoming somewhat weaker due to the non-recognition by state and various level structures of the state. The members of the indigenous community started to give priority to state's local level structure rather than traditional institution and authorities for any matter concerned them. Community survey also reflects on it. For example, 20% participants of the survey said that traditional institutions and authorities can't freely determine "who are" and "who are not" the members of the community where 80% said "yes they can". Similarly, mixed expression is observed about the handling of customary law by traditional institution and authorities in the community survey. For example, 30% participants of the survey said that the traditional institutions and authorities "do not" handle the disputes happened within the IPs community, where 30% and 40% said "yes to a limited" and "to some extent" respectively. With regard to disputes with other IPs community, 60% said that the traditional institution and authorities "do not" handle, and 20% said "yes" handle to a limited extent. Similarly, 60% said that do not handle the disputes with other non-indigenous community, and with other non-community members. Likewise, 30% participants of the survey said that the traditional institutions and authorities "do not" handle domestic violence, 20% said "yes" handle to a limited extent and 50% said "yes" to some extent.

Traditional institutions and authorities of indigenous peoples have been very effective in some indigenous peoples for mobilizing people of the community. Government has not recognized these institutions and authorities but various level of governments especially local level governments have taken policy of 'to use' without recognizing them. Being traditional institution a non-registered in the government, none of the different level governments have supported funds, and funds for awareness and capacity building of traditional institutions and authorities on international human rights standard. Consequently, government has not made their participation of traditional institution and authorities in the impact

assessment of various projects that affect their lands, territories and resources. A very few non-government organization has supported for this work. During the community survey, 100% participants said that no recognition and support from government, and no participation made by the central and local level governments on impact assessment of the projects.

Indigenous peoples rights and state

In Nepal, it is felt that there is a rivalry relationship between indigenous peoples and government. Federal government is ungracious to indigenous peoples. Provincial and local level governments are to see on how they move ahead. Since 2012 onwards, it has been very wonderful and unfortunate that government makes policies and programs relating to indigenous peoples but do not implement in real sense. The six years period from 2006 to 2012 was favorable time for indigenous peoples within which state made interim constitution, state ratified the international convention on indigenous and tribal peoples, 1987 (ILO Convention No. 169), voted for the UNDRIP and started inclusive development plan in the country. Since 2010 onwards, it was the time to speed up the implementation of ILO Convention No. 169, the UNDRIP and the policies and plan directed by 11th periodic plan. Unfortunately, the implementation of ILO Convention No. 169, the UNDRIP and some of the policies of the government is not happening.

In short, consultation with IPs on the matters that affect them, free prior and informed consent, identification and recognition of IPs traditional /customary lands (right to lands, territories and resources), customary law and practices, participation in the impact assessment of the project /actions, participation in decision making on the matter related to them (that affects them), collective rights (autonomy, self-rule / self-government, right to self-determination, self-determined development, traditional institutions' existence and function), right to compensation and no displacement etc in line with ILO Convention No. 169 and the UNDRIP are not implemented at all levels for which three levels (federal, provincial and local) governments are responsible.

Because of the reluctance of governments in implementation, indigenous peoples themselves are gradually implementing the above mentioned rights of indigenous peoples at ground level in line with ILO Convention No. 169 and the UNDRIP including international human rights instruments related to IPs. Hence, conflict between state and indigenous peoples happening in either form. The community survey also reflects on it.

According to the community survey, indigenous and local community members have been facing arrest, torture, physical injuries and suppression over the assemblies while defending the rights of community. During the community survey, 50% and 20% participants said that IPs community members have been arrested and tortured respectively by government administration while defending the rights of community. Similarly, 80% participants said that there is no killing, no death threat and no enforced disappearance and kidnapping where 20% participants did not accept that there is no killing, death threat, no enforced disappearance and kidnapping of IPs community member while defending the rights of community. 60% participants said that the suppression over peaceful assemblies of IPs community is frequently happening. Likewise, with regard to adequate consultation with IPs community by local and central government institution before the approval of projects undertaken or on other measures that affect IPs community, 100% participants told that no consultation by central government and 100% told no consultation by local governments, and no FPIC with IPs community as well.

IPs life system and threats

Life system of indigenous peoples is connected to lands, territories and natural resources in which they have been living since time immemorial. Because of their life system, ecology, ecosystem and environment are also maintained as it was. In their life system, they have certain beliefs and practices. They have belief not to destroy forest without appeasing forest gods (nature), if it is done without appeasing god, natural disaster and calamities will take place and people will victim of the results. They have belief not to

do anything in water fountain without appeasing water god (nature), and not to eat something produced on the ground without offering god first. If it is done against of it, epidemic and unwanted accidents will happen. They go hunting wild animals, fishing and gathering wild grains, medicinal plants and wild vegetables after appeasing land god and wild god. They are not allowed to do in the forest and lands as they like. If it is not followed, they believe that they will be punished. Their culture and knowledge have been developed accordingly. They protect animal pasture land for domestic animals. They need certain types of plants and leaves at the time of pregnancy, birth naming celebration and worshiping their god aftermath. They have systematized the human dead body burial place in their territories. As time passed, all those things have been changing, and indigenous peoples have been facing various problems due to changed context.

They have developed some knowledge and technologies (traditional/indigenous knowledge and technologies) that are needed and associated in their life system and connected to their culture and practices as a part of life system. Of the knowledge and technologies, yeast (*Marcha*) making and alcohol making knowledge and technologies are very important in their life cycle. These things are compulsory at the time of worshiping their ancestor and gods. They honor their guests by alcohol and need alcohol in every function and rituals whether that is wedding ceremony or funeral function. This has been a culture of indigenous peoples. For this, they cultivate millets, corn, paddy etc as main farming products. Before entering into market economy, the food habit was of local version not of market version. Those local version food items are losing its importance day by day, and market made food items is taking its place. These things are also reflected in the community survey.

With regard to food habits and importance in the indigenous community, 40% participants of the survey said that the food items not produced 20 years ago has negligible importance and 40% said that has considerable importance in the community. Similarly, with regard to importance of food items not produced today, 50%

participants said that the food items not produced today has considerable importance in the community, where 10% said "negligible importance". With regards to food insecurity over the past 12 months, 20% participants said that they worried about they would not have enough food to eat because of lack of money or other resources, 20% said often face food insecurity, 20% said always. Likewise, 20% participants said that community is unable to eat healthy and nutritious food because of lack of money or other resources, where 20% said sometimes and 20% said often. The community survey shows that indigenous peoples can't eat variety of food due to lack of money and other resources. They often skip meal, eat food less than they need and live in hunger. During the community survey, 20% survey participants said that IPs community eats a few kinds of food due to the lack of money and other resources. Similarly, 50% respondents said that IPs communities often skip their meal due to the same reason, and 20% always. Likewise, 20% and 10% participants said that the IPs communities eat less than they need quite often and always respectively. In the same way, 10% participants said that IPs communities live without eating whole day.

Poor and Poverty in IPs community

The understanding of poverty is different from institution to institution, from individual to individual. In the context of Nepal, Nepali state understands poverty as a result of low income or it analyses poverty based on consumption. It does not understand poverty as a consequence of denial and violation of human rights. So, the poverty line is drawn according to composite index based on life expectancy, knowledge (education) and standard of living. The basis for this is people earn less than \$ 1 per person per day. Based on this understanding of poverty, 33% of Tarai (plain land) IPs and 30% of marginalize hill IPs are living below national poverty line (as per the NLSS of 2010/11). Likewise, poor IPs is also understood by low income. The issues of poor and poverty in IPs community are also taken in the community survey. In the survey, poor and poverty in IPs men and women had been separately taken.

During the community survey, 60% respondents said that five or more than five men out of 10, and 40% respondents said that four out of 10 women consider poor in the IPs community. With regard to the characteristics of poor for IPs men, 100% respondents said that who is landlessness, 90% said that who has limited access to traditional land and resources, 80% said who has low monetary income, 80% said that who is illiterate, 100% said who has no education and employment, 80% said the who has irregular or under employment, 90% said that who has food shortage, 50% said that who has facing malnutrition, and 80% said the who has health problem. For the case of IPs women, respondents say same characteristics of poor but percentage is a little bit difference.

It is not important who is poor and who are in poverty. It is important how a community as a whole, individual and family become poor and enter into the net of poverty. There are numerous factors that push a community, individual and family into the net of poverty and become poor. Income is only one factor for determining poor and poverty. If we do not stop providing raw materials to the factory that produces poor and poverty, poor and poverty never eradicate and eliminate from the society, country and from the world. Deprivation, violation and denial of rights of community, individual and family are important factors that need to address in order to decrease poor and eradicate and eliminate poverty. Indigenous peoples of Nepal have been trapped and continually trapping into the net of poverty due to the violation and denial of their rights.

Social rights of IPs

Economic, social and cultural rights ensured by ICESCR are the rights of progressive realization. However, these rights are made legal obligation to state party by other international instruments. For indigenous peoples, many of the economic, social and cultural rights are reiterated in Convention on Indigenous and Tribal Peoples, 1987 (ILO Convention No. 169) and UNDRIP. Article 8 of the Convention on Indigenous and Tribal Peoples, 1987 (ILO Convention No. 169) has obligation to state to respect and regard customary law of indigenous peoples. Similarly, Article 20 talks about employment to

indigenous peoples. Likewise, Article 20, 24 and 25 include social security and health of indigenous peoples. Article 21, 22 and 23 provision handicraft, rural and community-base industries, and subsistence economy and traditional activities such as hunting, fishing, trapping and gathering as economic rights and development of indigenous peoples. In the same way, Article 26 to 31 talks about the rights of indigenous peoples to education and media / communication. Hence, broadly social rights of indigenous peoples possess social protection, protection of their social values and norms, social relationship, health and sanitation, access in school education, IPs language and education in IPs language, traditional occupation, traditional healing practices, employment etc

Nepal government has some policies and programs for endangered indigenous peoples in social sectors. Law for education through IPs mother tongues is already made. The community survey has also covered to see the current status of social rights of indigenous peoples in Nepal.

Social protection program (old age pension, social health protection, unemployment benefit, benefit during maternity leave etc) in the IPs community has covered one out of five as said by community survey participant; however there are other views too. According to survey, only 20% IPs community use safe drinking water though this is different from place to place and one IPs to another. With regard to using safely managed sanitation services, IPs community use only 20% (one out of five) safely managed sanitation services as per the community survey participants. This also varies from place to place and one IPs to another. 90% community survey participants said that local government has no policy and procedure for participating IPs in water and sanitation management. Access of electricity in IPs community varies from place to place, from one IPs to another. The survey shows that 20% to 60% IPs community have access of electricity. The survey shows that IPs communities have nominal access (nearly zero) of internet for various purposes including teaching (pedagogical).

Talking to health issues in IPs community, health care and facilities are being shifted from traditional health services to modern health services. The importance of traditional healing practices and traditional medicines is diminishing and the importance of modern technological health services is increasing in IPs community. With regard to importance of traditional healing practices and medicines over the last 20 years, during the community survey, 100% participants said that the importance of traditional health service is diminished. Similarly, with regards to reasons behind diminishing the traditional health services, 50% respondents said that there is lack of communities' trust over traditional health services, 60% respondents said that the traditional knowledge or medicines have been lost, and 20% respondents said that there is prohibition of traditional practices and medicines. However, there is no good access or quality of public health care for indigenous communities as said by 70% survey respondents.

IPs children and education

Indigenous peoples' children are living in ironic situation that develops a confused personality. They are living in transitional period where they learn a value and norm at home and different values and norms in school or education institution because the education system and education institutions are still under the domination of non-indigenous society. They speak one language at home and learn things at different language in schools. That is why; the school and class drop-out rate of indigenous children is high. Despite these facts, birth registration, school enrolment, education in higher grades and care for immunization of IPs community children is improving comparing last decades. Community survey also reflects on it.

With regard to birth registration with civil authority by indigenous community, 40% respondents said that three out of five under 5 age children are registered with civil authority. Similarly, 20% to 40% respondents of the survey said that 5% to 35% children of IPs community under five years of age suffer from stunting. Likewise, as per the survey respondents, 20-60% children of IPs community participate in organized learning (pre-school) one year before they

enter primary school. The status and road map for sustainable development goals 2016-2030 of Nepal government says that net enrolment rate of children in primary education reached to 96.6% in 2015, and literacy rate of population of age 15-24 years reached to 88.6% in 2015. It can't be found ethnicity wise segregated data on education, children enrolment, and dropout rates at various level of education from primary to tertiary level. The community survey 2017 shows that at least 60% IPs girls (2 out of 5) and 80% boys complete of primary education though primary education facilities are moderately accessible. Similarly, at least 20% girls and 40% boys complete of secondary education. The enrolment of IPs children (girls and boys) in tertiary level is very low that is maximum 20% girls and 40% boys. With regard to education in IPs language, 100% survey participants said no. So, the literacy in IPs language is nearly zero. As per the survey participants, the culture, tradition and histories of IPs are not included in text book and curriculum.

Indigenous peoples and livelihood

The livelihood measures of indigenous peoples in Nepal have been shifting from traditional form to modern form though exact data can't be found on how many IPs have been depending on traditional occupation and traditional livelihood pattern. Many indigenous communities are still depending on traditional occupation such as pastoralist occupation, hunting/gathering, shifting cultivation, fishing etc though these traditional occupation and life pattern have been decreased due to various reasons. Indigenous communities of highland engage in pastoralist occupation throughout the year. A very few indigenous communities in mid hills and lower hills do shifting cultivation despite the restriction from government forest administration. Hunting wild animals and gathering wild fruits and vegetables by indigenous communities is common in all places. These kinds of livelihood pattern of indigenous communities have been decreased due to the restriction of government's administration for forest, national parks, protected area and conservation area. Likewise, fishing is still a livelihood measure of indigenous communities like Bote, Majhi and IPs living on river banks. Because of the control over traditional occupation by government

administration in either ways, IPs have been displaced from their traditional lands, and migrated to other places for education, employment and better life. The community survey also gives important information on this matter.

During the community survey, 40% respondents said that IPs communities can't perform traditional occupation such as pastoralist, hunting and gathering, shifting cultivation, fishing etc without restriction. Majority of the respondents of survey said that IPs men and women (4 out of 5 or 80%) are not in education and employment, and a very few less than 20% (one out of five) are employed in formal sectors. With regard to IPs migration from traditional land, community survey participants said that at least 20% IPs have been permanently out migrated in search for better lives, and 20-40% IPs (men and women) migrates seasonally from traditional land to other places for short term in search of work. With regard to victims of forced labor, 80% respondents said that both men and women IPs become victims of force labor as per the community survey participants. Similarly, both men and women IPs have been victims of trafficking as said by 30-50% participants of community survey. Likewise, a small number of children of 5-17 age of IPs community become victims of child labor.

Violence against indigenous women

Violence against indigenous women occurs as a result of discrimination and inequality within family, society and in the state's function. The understanding of violence against women is being vague in the later days. Generally, sexual violence and domestic violence against women is taken as serious violence. The community survey found that 10% participants responded that five in every ten indigenous women face physical or sexual violence by intimate partners, and 10% responded that three in every ten indigenous women face sexual violence by the community members. 10% response was sexual violence by non-community members. Domestic violence against women in indigenous community is moderate not so serious.

SDGs plan of Nepal government and UNDRIP: Review and analysis

SDGs plan of Nepal government and UNDRIP

National Planning Commission has already made ‘Sustainable Development Goals, Status and Road Map: 2016-2030’ as a plan of Nepal government. The main slogan of SDGs is ‘leaving no one behind’.

Nepal government has made ‘Sustainable Development Goals, Status and Road Map: 2016-2030 with a comprehensive picture. The plan has explained common issues and ways of addressing them. But that has not explained specific issues of particular community while addressing the 17 goals. It has not talked about the protection and realization of neither indigenous peoples’ rights nor it has talked to address the gaps on socio-economic condition of indigenous peoples.

Nepal government has made ‘Sustainable Development Goals, Status and Road Map: 2016-2030 with a comprehensive picture. The plan has explained common issues and ways of addressing them. But that has not explained specific issues of particular community while addressing the 17 goals. It has not talked about the protection and realization of neither indigenous peoples’ rights nor it has talked to address the gaps on socio-economic condition of indigenous peoples. The 17 sustainable development goals are not directly related or not specific to the rights of indigenous peoples. However, out of 169 targets, nearly one-third targets link with UNDRIP in some ways. General issues cover to all kinds of people. For example, under SDG 1, Nepal has planned to reduce extreme poverty to 5% and MPI to 7% by 2030. In order to eradicate poverty of all people everywhere, government has to address the specific issues of indigenous peoples that have obstructed their poverty eradication. This is not outlined in the SDGs plan of the government. Though 17 sustainable goals do not focus on the specific rights of indigenous peoples but these goals and plans touch indigenous peoples in either way. Perhaps, Nepal government’s five years plan

includes the plan of SDGs that provides policies, plans and programs to meet the targets which is being made now by National Planning Commission (NPC) as 15th five years plan. Indigenous peoples of Nepal in the initiation of National Foundation for the Development of Indigenous Nationalities (NFDIN) and LAHURNIP have approached NPC for 15th five years plan in detail from the sides of indigenous peoples.

SDG 1: End poverty in all its forms everywhere

Nepal has planned to reduce extreme poverty to 5% and MPI to 7% by 2030. For this purpose, the plan has targeted the social protection expenditure to reach 15% of the federal budget in 2030. The plan has not mentioned the segregated effort for poverty reduction.

SDG 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture

Under SDG 2, Nepal has planned to reduce the prevalence and undernourishment of children less than 5 years age from 36% to 3% by 2030 and underweight children to 9%. Likewise, it is planned to reduce anemia among women of reproductive age and children from 53% to 10% by 2030. This is only possible in indigenous communities when their traditional life pattern on land, territories and resources are recognized and improved.

SDG 3: Ensure healthy lives and promote well-being for all at all ages

Similarly, under SDG 3, Nepal government has planned to reduce MMR from 258 per 100,000 to 70 per 100,000, prevalence of death of new born and children to less than 1%, and less than 5 years child mortality rate from 23-38 to 12-20 per thousand birth by 2030. It is planned to increase budget 5% to 7% in order to eliminate the prevalence of HIV, TB, malaria and other tropical diseases. It is also planned to increase modern method (CPR) to 60%, increase births attended by skilled health persons to 90% and institutional

delivery to 90%. Most of these things depend on belief system of a particular society. Indigenous peoples use traditional medicines to maintain their health practices. The plan of government under SDG 3 is possible only when their traditional treatment cum modern method and medicines are strengthened.

SDG 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all

Likewise, under SDG 4, Nepal government has planned to increase net enrolment rate (NER) from 96.6% to 99.5% and 99% gross enrolment in secondary education, and 95% students enrolled in grade one reached to grade eight by 2030. It is also planned to provide relevant skills to 75% youth and adults, and 98% youth and adults achieve literacy by 2030. Indigenous peoples being distinct people having different language, culture and belief, the above mentioned SDG's plan will get success when children and youth get education through their mother tongue and rights of indigenous peoples be recognized and implemented throughout the country.

SDG 5: Achieve gender equality and empower all women and girls

SDG 5 is related to gender equality and empowerment of women and girls. Nepal government has planned to eliminate wage discrimination for similar work, eliminate physical/sexual violence, to eliminate all harmful practices, to increase seats for women to 40% in the national parliament, to reduce gender equality index from 0.49 to 0.05 and increase women in public service from 11% to 33% by 2030. The reality of Nepal is that there is discrimination among women where women are put into a basket. Indigenous women are facing discrimination – from male, from state and from mainstream women. For successful SDGs plan, government has to plan to address the diversity within women in each above plan which is not found in the plan.

SDG 6: Ensure availability and sustainable management of water and sanitation for all

Under SDG 6, government has proposed specific targets for the year 2030 include basic water supply coverage to 99 percent of households and piped water supply and improved sanitation to at least 90 and 95 percent of households, respectively. Other targets include the enabling of 98 percent of the population to have access to sanitary latrines.

SDG 7: Ensure access to affordable, reliable, sustainable and modern energy for all

Nepal government has proposed specific targets for SDG 7 include accessibility of 99 percent households to electricity; reduction to 30 percent - from nearly 75 percent now - the households who resort to firewood for cooking; limiting the use of LPG to less than 40 percent of the households; generation of 15,000 MW of installed capacity; and per capita electricity consumption increased to 500 kWh. To meet the target, hydro-electricity project are to be built where indigenous peoples have been living. Government has to respect and recognize the rights of indigenous peoples over land, territories, resources, free prior informed consent etc in order to avoid conflict and to meet the target of SDG.

SDG 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

Under SDG 8, the target for 2030 is to achieve per capita GDP growth of at least seven percent. The other targets are to reduce material intensity in manufacturing to 60 percent; lower underemployment to less than 10 percent; and to eliminate the worst forms of child labor. Alongside, the target is also to increase annual number of jobs in the tourism industry tenfold and to increase the direct contribution of tourism to GDP four-fold. Moreover, the target for access to finance is set at 36 commercial bank branches per 100,000 people by 2030, doubling the current rate of prevalence;

80 percent of households are targeted to have access to community financial institutions such as cooperatives within 30 minutes of walking distance. All these things and issues are intertwined one another. GDP growth, employment etc can't be thought in isolation. If the target of energy production is not met that hampers all other targets of SDGs.

SDG 9: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation

Under SDG 9, the 2030 target is to increase road density to 1.3 km/sq. km and paved road density to 0.25 km/sq. km. The industrial sector (manufacturing, water and electricity, and construction) suffers from low investment and lack of competitiveness, particularly in manufacturing. Thus the share of industry in total output remains at just 15 percent and this sector employs less than 7 percent of the labor force. The target for 2030 is to increase the share of industry to 25 percent to promote labor intensive activities and raise employment in manufacturing to 13 percent of total employment.

SDG 10: Reduce inequality within and among countries

Similarly, the proposed specific targets for SDG 10 are set to reducing consumption inequality (index) from 0.33 in 2015 to 0.16 in 2030 and reducing income inequality from 0.46 to 0.23. The Palma ratio is targeted to improve from 1.3 to 1 in the same period. The targets also include increasing the share of the bottom 40 percent of the population to total income from 12 percent to 18 percent, and increasing the ratio of nominal wage index to consumer price index from 2.94 to 3 in the same period to protect workers from deteriorating real wages.

SDG 11: Make cities and human settlements inclusive, safe, resilient and sustainable

Under SDG 11, the 2030 target is to construct at least 60 new satellite cities. The catastrophic earthquake of 2015 damaged

756,000 houses (499,000 fully), 6,063 health facilities and 1,711 other structures. Two thousand nine hundred cultural and religious heritages at least a century old were either destroyed or damaged. For those affected by earthquake, construction of safe housing on government subsidies has begun. The target is to complete the reconstruction by 2020. The 2030 target is to reduce the number of households residing with more than five persons to 20 percent from 47 per cent in 2015. The target is to make at least 50 percent of the highways safe by global standards. The proposed specific targets for 2030 include doubling the proportion of households living in safe houses to 60 percent; substantially reducing air pollution, preventing the deaths and injuries due to disaster, repairing and reconstructing, by 2020, all cultural heritages destroyed by earthquake, and increasing the budget allocation to the protection of cultural heritage from about 1.15 percent in 2015 to 2 percent by 2030.

SDG 12: Ensure sustainable consumption and production patterns

Under SDG 12 the target for land to be available for cereal production is set at 75 percent of all cultivated land. Currently, consumption of wood per capita is 0.11 m³ per year, and this is proposed to be contained within 0.05 m³ per year. Use of plastic per capita which was 2.7 gram per day in 2015 is proposed to be close to nil. Similarly, the post-harvest loss of food is targeted to reduce from 15 percent in 2015 to less than 1 percent by 2030. The other proposed specific targets for SDG 12 include limiting water use to 20 percent of water resources, limiting fossil fuel consumption to 15 percent of energy consumption, and reducing liquid and solid industrial waste and eliminating of fossil fuel subsidy.

SDG 13: Take urgent action to combat climate change and its impacts

Under SDG 13 the proposed specific targets for SDG 13 include halving the existing CO₂ emission level. Climate change adaptation plan is proposed for at least 120 Village Municipalities by 2030. In the meantime, climate smart villages are proposed to increase

from zero to 170 and climate smart farming to 500 units from zero at present.

SDG 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development

Almost all schools will be covered by climate change education. SDG 14 is mentioned as not relevant to Nepal.

SDG 15: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss

Under SDG 15 the 2030 target is to maintain the share of protected area at 23.3 of the total land area, increase forest under community management from 39 percent to 42 percent of the forest area, halt forest loss and degradation, increase mountain ecosystem covered by the protected area to 70 percent in 2030, and undertake additional plantation of 5000 hectares each year.

SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive

Under SDG 16 the proposed specific targets for SDG 16 include ending death from violent conflict, violence against women, and violence against children, and to improve transparency and accountability scores on globally benchmarked indices. The targets also include eliminating marriage before the age of 18 years, and to have universal birth registration.

SDG 17: Strengthen the means of implementation and revitalize the global partnership for sustainable development

Under SDG 17 the targets for revenue collection for 2030 are set at 30 percent of GDP. Domestic government expenditure financed by internal revenue is targeted to reach 80 percent in 2030. The target

appears modest because a scaled-up public investment drive to redress critical infrastructure gaps will require large amounts of external resources, in addition to strong revenue collection. To meet the private sector investment financing gap, foreign direct investment (inward stock) needs to multiply at least five-fold from present levels.

Gaps in National Policy Commitment and Implementation Gaps

Gaps can be found in three layers. The top layer is commitment of state in international instruments and reflection of it in national laws such as constitution. The second layer is laid in between constitution and policies, acts, rules and regulation. It should be observed that how polices, acts, rules and regulations are made in line with the spirit / provisions of constitution. The third layer is laid between laws and implementation at ground in practical level. Here the major gaps have been analyzed.

Gap 1: One of the serious gaps is found non-alignment of national laws with international law (CERD, ICCPR, ICESCR and ILO Convention No. 169 and morally obliged the UNDRIP for the case of indigenous peoples). The constitution of Nepal has not fully incorporated the spirit and provisions of CERD, ICCPR, ICESCR and ILO Convention No. 169 and morally obliged the UNDRIP to which Nepal is a state party. Autonomy, self-government, right to self-determination and self-determined development are the rights of indigenous peoples ensured by these international instruments. Additionally, rights of IPs to lands, territories and resources, rights of customary law, non-discrimination, democracy and fundamental freedom, social, economic and cultural rights, free prior informed consent on their matter, right to participate in decision making on the matter related to them etc are the rights of IPs ensured by these international instruments. All most all these rights are not spelt out in our constitution and laws.

Gap 2: The constitutional provisions stipulated in various articles are not translated into policies, acts, rules and regulations such as

(i) IPs right to participate in state organs (of federal and provinces) on the basis of inclusive principles (Articles 42 and 283). Inclusive principle is understood as just to represent nominally as the ruler like or ruler's jurisdiction though their population is half of the population of the country. This is not a fair understanding. Inclusive word itself automatically gives meaning of representation based on the population. This needs to be understood as representation based on population while making acts, rules and regulations (laws) related to participation in state organs.

(II) Right to adhere, practice, and protect one's own religion as per his / her faith and defend and run religious sites and trusts (Article 26). This spirit of the constitution should be fully respected while making acts, rules and regulation. Some of the indigenous peoples worship their ancestral god by killing cow and bull. This is strictly prohibited by Criminal (code) Act, 2017 (article 289). The Criminal (code) Act, article 289 prohibits not only killing of cow and bull, that prohibits to hitting cow and bull, if this is done so, there is a provisions of punishment.

(III) Right to free, compulsory, basic education and free education up to the secondary level and right to education in mother tongue and run educational institutions (Article 31). This spirit of the constitution is not fully respected while making acts, rules and regulation. Indigenous peoples have right to education in their mother tongue and run educational institutions. The *Compulsory and Free Education Act, 2075 (2018)* has violated the constitutional provision of right to non-discrimination on the basis of ethnicity, language, religion, gender, social origin, physical disability or region (Article 18). The *Compulsory and Free Education Act, 2075 (2018)* has mentioned 'could do' or could provide / manage education in IPs mother tongue where the act has mentioned 'do provide' or do manage education in *Khas-Nepali* language. The use of could do or could provide does not mean compulsory where the word do provide or do manage means compulsory.

(IV) Right to use own language and right to preserve and promote own language, script, culture, cultural civilization and heritage (Article 32). This spirit of the constitution is not respected appropriately while making acts, rules and regulations related to language, script, culture, cultural civilization and heritage. Government is occupying, encroaching and grabbing such cultural civilization and heritage in the name of road expansion and military camp settlement. This is a serious violation of article 32 of the constitution.

Gap 3: Many provisions of the constitution and acts related to indigenous peoples that have less important are being implemented at ground in practical level. The *Fourth National Human Rights Action Plan of Nepal Government (2014/15-2018/19)* has planned to review all the laws in line with ILO Convention No. 169 and the UNDRIP, to make approve *National Action Plan* from cabinet for the implementation of ILO Convention No. 169 and to make new laws. But these things are not implemented till to date. Indigenous Nationalities Commission act is already made but the commission is not formed yet,

In short, all these things (implementation of international instruments especially ILO Convention No. 169 and the UNDRIP, policy comments done by the government, and implementation of laws related to indigenous peoples) including SDGs for IPs can be monitored by making a monitoring framework matrix (see *Annex 5*).

Recommendation for way forward

The major gaps identified between international law and national laws, constitution and acts, rules and regulations, laws and implementation should be considered to take for further actions.

Recommendation 1: Effort to making respect to the international instruments related to IPs rights by the constitution of Nepal through the process of amendment.

Recommendation 2: Assessing of existing laws of Nepal related to indigenous peoples, and making effort for refining and making new laws in line with ILO Convention No. 169 and the UNDRIP including all international instruments. There is a need of mother law on the rights of indigenous peoples so that can guide to all laws and plan related to various sectors.

Recommendation 3: Empowering and awareness raising to indigenous communities is still a need so that IPs could understand their rights, power and enhance capacity so that they could implement ILO Convention No. 169 and the UNDRIP in their initiation.

Recommendation 4: Working in collaboration with local governments in the context that local government' has certain power domain, roles, responsibility and budget and program planning.

Annexes

Annex 1: Linkages between SDG targets and UNDRIP

SDG target	UNDRIP article
<p>1.1 By 2030, eradicate extreme poverty for all people everywhere, currently measured as people living on less than \$1.25 a day.</p> <p>Indicators 1.1.1</p>	<p>20.1 Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p> <p>20.2 Indigenous peoples deprived of their means of subsistence and developments are entitled to just and fair redress.</p>
<p>1.2 By 2030, reduce at least by half the proportion of men, women and children of all ages living in poverty in all the dimensions according to national definition.</p> <p>Indicators 1.2.1 1.2.2</p>	<p>20.1 Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p> <p>20.2 Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.</p>

<p>1.3 Implement nationally appropriated social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable.</p> <p>Indicators</p> <p>1.3.1</p>	<p>20.1 Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p>
<p>1.4 By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance.</p>	<p>14.2 Indigenous individuals, particularly children, have the right to all levels and forms of education of the state without discrimination.</p> <p>21.1 Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p> <p>21.2 States shall take effective measures and, where appropriate, special measures to ensure continuing</p>

improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

24.2 Indigenous individuals have an equal right to the employment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

26.1 Indigenous peoples have Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

39. Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

<p>1.a Ensure significant mobilization of resources from a variety of sources, including through embraced development cooperation, in order to provide adequate and predictable means for developing countries, in particular at least developed countries, to implement programs and policies to end poverty in all its dimensions.</p> <p>Indicators</p> <p>1.a.</p> <p>11.a.2</p>	<p>39. Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.</p>
<p>1.b Create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender sensitive development strategies, to support accelerated investment in poverty eradication actions.</p> <p>Indicators</p> <p>2.1.1</p>	<p>39. Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.</p>

<p>2.4 By 2030, ensure sustainable food production systems and implement resilient agriculture practices that increase productivity and production, that help maintain ecosystems, that strengthen capacity for adaptation to climate change, extreme weather, drought, flooding and other disasters and that progressively improve land and soil quality.</p>	<p>29.1 Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.</p>
<p>2.5 By 2020, maintain the genetic diversity of seeds, cultivated plants and farmed and domesticated animals and their related wild species, including through soundly managed and diversified seed and plant banks at the national, regional and international levels, and promote access to and fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge, as internationally agreed</p>	<p>31.1 Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.</p>

<p>3.1 By 2030, reduce the global maternal mortality ratio to less than 70 per 100,000 live births</p> <p>Indicators</p> <p>3.1.1</p> <p>3.1.2</p>	<p>7.1 Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p> <p>24.1 Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.</p> <p>24.2 Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.</p>
<p>3.2 By 2030, end preventable deaths of newborns and children under 5 years of age, with all countries aiming to reduce neonatal mortality to at least as low as 12 per 1,000 live</p>	<p>7.1 Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p>

<p>births and under-5 mortality to at least as low as 25 per 1,000 live births</p> <p>Indicators</p> <p>3.2.1</p> <p>3.2.2</p>	<p>24.1 Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.</p> <p>24.2 Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.</p>
<p>3.9 By 2030, substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination</p> <p>Indicators</p> <p>3.9.1</p>	<p>7.1 Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p> <p>29.2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p>

	<p>29.3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.</p>
<p>3.d Strengthen the capacity of all countries, in particular developing countries, for early warning, risk reduction and management of national and global health risks</p> <p>Indicators</p> <p>3.d.1</p>	<p>7.1 Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p>
<p>4.1 By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes</p> <p>Indicators</p> <p>4.1.1</p>	<p>14.1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.</p>

	<p>14.2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.</p> <p>14.3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.</p> <p>15.1 Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.</p>
<p>4.2 By 2030, ensure that all girls and boys have access to quality early childhood development, care and preprimary education so that they are ready for primary education</p> <p>Indicators</p>	<p>14.1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.</p>

<p>4.2.1</p> <p>4.2.1</p>	<p>14.2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.</p> <p>14.3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.</p> <p>15.1 Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.</p>
<p>4.3 By 2030, ensure equal access for all women and men to affordable and quality technical, vocational and tertiary education, including university</p> <p>Indicators</p> <p>4.3.1</p>	<p>21.1 Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p>

<p>4.4 By 2030, substantially increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship</p> <p>Indicators</p> <p>4.4.1</p>	<p>21.1 Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p>
<p>4.5 By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations</p> <p>Indicators</p> <p>4.5.1</p>	<p>14.1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.</p> <p>14.2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.</p> <p>14.3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous</p>

	<p>individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.</p>
<p>5.1 End all forms of discrimination against all women and girls everywhere</p> <p>Indicators</p> <p>5.1.1</p>	<p>22.2 States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.</p>
<p>5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation</p> <p>Indicators</p> <p>5.2.1</p> <p>5.2.2</p>	<p>22.2 States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.</p>

<p>5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation</p> <p>Indicators</p> <p>5.3.1</p> <p>5.3.2</p>	<p>individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.</p> <p>22.2 States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.</p>
<p>5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation</p> <p>Indicators</p> <p>5.2.1</p> <p>5.2.2</p>	<p>22.2 States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.</p>

<p>6.3 By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally</p> <p>Indicators</p> <p>6.3.1</p> <p>6.3.2</p>	<p>29.2 States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p>
<p>6.5 By 2030, implement integrated water resources management at all levels, including through transboundary cooperation as appropriate</p>	<p>29.2 States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p>
<p>6.6 By 2020, protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes</p> <p>Indicators</p> <p>6.6.1</p>	<p>29.1 Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.</p>

<p>6.a By 2030, expand international cooperation and capacity-building support to developing countries in water- and sanitation-related activities and programmes, including water harvesting, desalination, water efficiency, wastewater treatment, recycling and reuse technologies</p> <p>Indicators</p> <p>6.a.1</p>	<p>39. Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.</p>
<p>6.b Support and strengthen the participation of local communities in improving water and sanitation management</p> <p>Indicators</p> <p>6.b.1</p>	<p>19. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.</p> <p>23. Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and</p>

	<p>social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.</p> <p>32.2 States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.</p>
<p>7.1 By 2030, ensure universal access to affordable, reliable and modern energy services</p> <p>Indicators</p> <p>7.1.1</p> <p>7.1.2</p>	<p>21.1 Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p> <p>21.2 States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions.</p>

	Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.
7.b By 2030, expand infrastructure and upgrade technology for supplying modern and sustainable energy services for all in developing countries, in particular least developed countries, small island developing States, and land-locked developing countries, in accordance with their respective programmes of support	<p>21.1 Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p> <p>32.2 States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.</p>
8.5 By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value	17.3 Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

<p>Indicators</p> <p>8.5.1</p> <p>8.5.2</p> <p>8.6 By 2020, substantially reduce the proportion of youth not in employment, education or training</p> <p>Indicators</p> <p>8.6.1</p>	
<p>8.7 Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms</p> <p>Indicators</p> <p>8.7.1</p>	<p>17.3 Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, <i>inter alia</i>, employment or salary.</p>
	<p>17.2 States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.</p>

8.9 By 2030, devise and implement policies to promote sustainable tourism that creates jobs and promotes local culture' and products

11.1 Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

11.2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

12.1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

<p>9.1 Develop quality, reliable, sustainable and resilient infrastructure, including regional and transborder infrastructure, to support economic development and human well-being, with a focus on affordable and equitable access for all</p> <p>Indicators</p> <p>9.1.1</p> <p>9.1.2</p>	<p>31.1 Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.</p>
	<p>32.2 States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.</p>

<p>10.1 By 2030, progressively achieve and sustain income growth of the bottom 40 per cent of the population at a rate higher than the national average</p> <p>Indicators</p> <p>10.1.1</p>	<p>20.1 indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p> <p>20.2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.</p> <p>21.1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p>
<p>10.2 By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status</p>	<p>3. Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.</p> <p>5. Indigenous peoples have the right to maintain and</p>

<p>Indicators</p>	<p>strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.</p> <p>10.2.1</p> <p>15.2 States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.</p> <p>20.1 Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p> <p>20.2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.</p>
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	<p>21.1 indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p>
<p>10.2 By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status</p> <p>Indicators</p> <p>10.2.1</p>	<p>3. Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.</p> <p>5. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.</p> <p>15.2 States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.</p>

	<p>20.1 Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p> <p>20.2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.</p> <p>21.1 indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p> <p>21.2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.</p>
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<p>10.3 Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard</p> <p>Indicators</p> <p>10.3.1</p>	<p>3. Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.</p> <p>5. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.</p> <p>15.2 States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.</p> <p>20.1 Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p>
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<p>10.4 Adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality</p> <p>Indicators</p> <p>10.4.1</p>	<p>20.2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.</p> <p>21.1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p> <p>21.2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.</p>
	<p>15.2 States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.</p>

	<p>17.3 Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.</p> <p>20.1 Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p> <p>21.1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p>
<p>10.7 Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies</p> <p>Indicators</p> <p>10.7.1</p>	<p>7.1 Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p> <p>17.2 States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to</p>

	<p>the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.</p>
<p>11.4 Strengthen efforts to protect and safeguard the world's cultural and natural heritage</p>	<p>12.2 States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.</p> <p>31.1 Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.</p>

11.1 Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

11.2 States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

12.1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

<p>11.5 By 2030, significantly reduce the number of deaths and the number of people affected and substantially decrease the direct economic losses relative to global gross domestic product caused by disasters, including water-related disasters, with a focus on protecting the poor and people in vulnerable situations</p>	<p>7.1 Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p>
<p>11.6 By 2030, reduce the adverse per capita environmental impact of cities, including by paying special attention to air quality and municipal and other waste management</p> <p>Indicators</p> <p>11.6.1</p> <p>11.6.2</p>	<p>29.2 States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p>
<p>12.2 By 2030, achieve the sustainable management and efficient use of natural resources</p>	<p>25. Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.26. 1. Indigenous peoples have</p>

	<p>the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.26.2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.</p>
<p>12.4 By 2020, achieve the environmentally sound management of chemicals and all wastes throughout their life cycle, in accordance with agreed international frameworks, and significantly reduce their release to air, water and soil in order to minimize their adverse impacts on human health and the environment</p> <p>Indicator</p> <p>12.4.1</p>	<p>29.2 States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p> <p>29.3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.</p>
<p>12.5 By 2030, substantially reduce waste generation through prevention, reduction, recycling and reuse</p> <p>Indicator</p> <p>12.5.1</p>	<p>29.2 States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p>

	<p>29.3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.</p>
<p>12.8 By 2030, ensure that people everywhere have the relevant information and awareness for sustainable development and lifestyles in harmony with nature</p>	<p>15.1 Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.</p>
<p>12.b Develop and implement tools to monitor sustainable development impacts for sustainable tourism that creates jobs and promotes local culture and products</p>	<p>11.1 Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.</p> <p>11.2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property</p>

taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

12.1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

31.1 Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

<p>13.1 Strengthen resilience and adaptive capacity to climate-related hazards and natural disasters in all countries.</p>	<p>7.1 Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p>
<p>13.3 Improve education, awareness-raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning</p>	<p>5. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.</p> <p>15.1 Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.</p> <p>18. Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision making institutions.</p>

<p>13.b Promote mechanisms for raising capacity for effective climate change-related planning and management in least developed countries and small island developing States, including focusing on women, youth and local and marginalized communities</p>	<p>5. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.</p> <p>18. Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision making institutions.</p>
<p>14.2 By 2020, sustainably manage and protect marine and coastal ecosystems to avoid significant adverse impacts, including by strengthening their resilience, and take action for their restoration in order to achieve healthy and productive oceans</p>	<p>25. Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.</p> <p>26.1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.</p>

	<p>26.2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.</p>
<p>14.5 By 2020, conserve at least 10 per cent of coastal-nd marine areas, consistent with national and international law and based on the best available scientific information</p> <p>Indicator</p> <p>14.5.1</p>	<p>29.1 Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.</p>
<p>14.b Provide access for small-scale artisanal fishers to marine resources and markets</p>	<p>26.2 Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.</p> <p>29.1 Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.</p>

	<p>States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.</p>
<p>15.1 By 2020, ensure the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services, in particular forests, wetlands, mountains and drylands, in line with obligations under international agreements</p>	<p>26.1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.</p> <p>26.2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.</p> <p>29.1 Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.</p>

	<p>29.2 States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p>
<p>15.2 By 2020, promote the implementation of sustainable management of all types of forests, halt deforestation, restore degraded forests and substantially increase afforestation and reforestation globally</p> <p>Indicator</p> <p>15.2.1</p>	<p>26.1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.</p> <p>26.2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.</p> <p>29.1 Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.</p>

	<p>29.2 States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p>
<p>15.3 By 2030, combat desertification, restore degraded land and soil, including land affected by desertification, drought and floods, and strive to achieve a land degradation-neutral world</p>	<p>26.1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.</p> <p>26.2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.</p> <p>29.1 Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.</p>

	<p>29.2 States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p>
<p>15.4 By 2030, ensure the conservation of mountain ecosystems, including their biodiversity, in order to enhance their capacity to provide benefits that are essential for sustainable development</p> <p>Indicator</p> <p>15.4.1</p> <p>15.4.2</p>	<p>26.1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.</p> <p>26.2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.</p> <p>29.1 Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.</p>

<p>15.5 Take urgent and significant action to reduce the degradation of natural habitats, halt the loss of biodiversity and, by 2020, protect and prevent the extinction of threatened species</p> <p>Indicator</p> <p>15.5.1</p>	<p>29.2 States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p> <p>26.1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.</p> <p>26.2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.</p> <p>29.1 Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.</p>
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<p>15.6 Promote fair and equitable sharing of the benefits arising from the utilization of genetic resources and promote appropriate access to such resources, as internationally agreed</p>	<p>29.2 States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.</p> <p>31.1 Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.</p>
<p>15.a Mobilize and significantly increase financial resources from all sources to conserve and sustainably use biodiversity and ecosystems</p> <p>Indicator 15.a.1</p>	<p>39. Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.</p>

<p>15.b Mobilize significant resources from all sources and at all levels to finance sustainable forest management and provide adequate incentives to developing countries to advance such management, including for conservation and reforestation</p>	<p>39. Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.</p>
<p>15.c Enhance global support for efforts to combat poaching and trafficking of protected species, including by increasing the capacity of local communities to pursue sustainable livelihood opportunities</p>	<p>20.1 Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p> <p>20.2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.</p>
<p>16.1 Significantly reduce all for11s of violence and related death rates everywhere</p> <p>Indicator</p> <p>16.1.1</p> <p>16.1.2</p>	<p>7.1 Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p> <p>7.2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.</p>

<p>16.2 End abuse, exploitation, trafficking and all forms of violence against and torture of children</p> <p>Indicator</p> <p>16.2.1</p> <p>16.2.2</p>	<p>22.2 States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.</p>
	<p>7.1 Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p>
	<p>7.2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.</p> <p>17.2 States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.</p>

<p>16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels</p> <p>Indicator</p> <p>16.7.1</p>	<p>22.2 States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.</p> <p>5. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.</p> <p>18. Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision making institutions.</p>
<p>16.9 By 2030, provide legal identity for all, including birth registration</p> <p>Indicator</p> <p>16.9.1</p>	<p>6. Every indigenous individual has the right to a nationality.</p> <p>33.1 Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions.</p>

<p>16.10 Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements</p>	<p>This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.</p> <p>7.1 Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p> <p>16.1 Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.</p> <p>16.2 States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity</p>
<p>16.b Promote and enforce non-discriminatory laws and policies for sustainable development</p> <p>Indicator</p> <p>16.b.1</p>	<p>3. Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. social security.</p>

21.2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

5. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

15.2 States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

20.1 Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own

	<p>means of subsistence and development, and to engage freely in all their traditional and other economic activities.</p> <p>20.2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.</p> <p>21.1 indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.</p> <p>21.2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.</p>
<p>17.3 Mobilize additional financial resources for developing countries from multiple sources</p> <p>Indicator</p> <p>17.3.1</p>	<p>39. Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.</p>

Annex 2. Logframe matrix of the project. IWGIA/ GPGC 2015/039-276. MAKING THE SDGs WORK FOR INDIGENOUS PEOPLES: Promoting indigenous peoples' human development and social inclusion

Annex 2. Logframe matrix of the project. IWGIA/ GPGC 2015/039-276. MAKING THE SDGs WORK FOR INDIGENOUS PEOPLES: Promoting indigenous peoples' human development and social inclusion in the

	Intervention logic	Indicators	Baselines (incl. reference year)	Targets (incl. reference year)	Sources and means of verification	Assumptions
Overall objective/ Impact	The overall objective of the action is to contribute to the human development and social inclusion of indigenous peoples in the context of the implementation of the 2030 Agenda for Sustainable Development.	Improved human development indicators for indigenous peoples (Health, education and employment) and reduced inequality and discrimination against indigenous	Technical Baseline Document TBD based on indigenous navigator surveys conducted under the EIDHR project in the initial phase of implementation	The targets for each country will be set during the initial phase of implementation and related to the elaboration of indigenous strategies for how to make the SDGs work	IP SI1.MoV: Indigenous Navigator database National fact sheets produced under the EIDHR grant	Indigenous peoples' allies in the international SDG process will continue to support and promote their issues A supportive political environment is maintained in the implementation countries

		<p>peoples to be defined in the initial phase of implementation</p>		<p>for indigenous peoples (supported under component 2 of the GPGC project</p>	<table border="1"> <tr> <td data-bbox="150 328 561 496"> <p>National and local indigenous strategies on SDG implementation produced under component 1 and 2</p> </td> <td data-bbox="561 328 907 496"> <p>Global, regional and national monitoring reports of the SDGs</p> </td> </tr> </table>	<p>National and local indigenous strategies on SDG implementation produced under component 1 and 2</p>	<p>Global, regional and national monitoring reports of the SDGs</p>	<p>National budgets and international funds will be set aside to implement SDGs including for indigenous peoples in target countries Indigenous national and local organisations find the 2030 agenda relevant to address</p>
<p>National and local indigenous strategies on SDG implementation produced under component 1 and 2</p>	<p>Global, regional and national monitoring reports of the SDGs</p>							

<p>Specific objectives / Outcomes</p>	<p>Oc 1: Indigenous peoples' self-determined, sustainable human development has been operationalized and indigenous communities' access to social services and social protection, in accordance with their own values and development aspirations, has been facilitated, through capacity building and locally defined pilot initiatives</p>	<p>Ocl 1.1: Number of indigenous communities who see improvement in access to social services and consider that their local governments deliver satisfactory social services and social protection</p>	<p>O c 1 . 1 . Baseline: TBD as an outcome of community surveys in target communities carried out under the EIDHR financed ILO project,</p>	<p>Oc1.1. Target: TBD during the inception period</p>	<p>OC1.I.1 MoV Indigenous Navigator & Project M&E system able to be designed during project inception. mutually reinforce each others' activities</p>	<p>Implementers of Component 1&2 and Component 3 respectively are willing and able to cooperate, coordinate and mutually reinforce activities</p>

	<p>Oc 2. Indigenous target communities have linked effectively with local governments' planning- and service-delivery processes in relevant social sectors such as food sovereignty, health, education and vocational training (including in traditional occupational participation skills), social protection (including tenure</p>	<p>Ocl.2.1: Number of local governments in target areas that include social development indicators disaggregated for indigenous peoples in their SDG implementation programmes.</p>	<p>Ocl.2.1: Baseline: 0</p>	<p>Oc2.1. Target: TBD during the inception period</p>	<p>OC1.2. MoV: Copies of implementation plans and programmes by local governments in target areas to be referred to in final reports</p>	<p>Local duty-bearers are aware of and engaged in the SDG implementation</p>
	<p>Ocl.2.2: Number of references to indigenous peoples' situation in SDG</p>	<p>Oc2.2 Baseline: 0</p>	<p>Oc2.2. Target: TBD during the inception period</p>	<p>OC1.3. MoV: Copies of monitoring and progress report on SDG implementation</p>	<p>The political environment in target municipalities or other relevant political</p>	

<p>Expected results/ Outputs</p>	<p>security), active labour market measures (including enhancing traditional occupation), energy, water, etc.</p>	<p>monitoring reports from local governments in target areas</p>			<p>from local governments in target areas to be included as annexes or referenes in final reports.</p>	<p>administrative entities will be favourable to the action</p>
	<p>Op.1.1. Indigenous men and women in target communities have knowledge and capacity to identify and prioritize their needs and have elaborated plans and proposals</p>	<p>Op1.1.1.Number of communities with concrete proposals for how to address self-identified human development needs with the use of indigenous navigator data</p>	<p>Op1.1. Baseline: 0</p>	<p>Op1.1.Target: By 2020, 66 indigenous communities have presented concrete pilot project proposals.</p>	<p>R1.1.MoV: Copies of pilot project proposals, workshop reports to be submitted by national partners after workshop completion.</p>	<p>Target communities will actively engage in participatory reflection and planning</p>

	for self-determined sustainable development					
	Op 1.2. Indigenous community leaders and local indigenous authorities in target communities are aware of their rights to receive adequate social services and protection from the State	Op1.1.2. Number of community leaders and local indigenous authorities (men and women) trained about their rights, SDGs and other relevant public policies and budgets, monitoring and advocacy skills	Op1.2. Baseline: 0	Op1.2.Target: .By 2020 at least 450 local indigenous authorities and/or community leaders trained	R1.1.MoV: List of participants, workshop reports, questionnaires by participants trained, copies of training and information materials. Copies of advocacy strategies and material. To be	Indigenous community leaders and local authorities are interested and willing to participate in training and find the topics relevant and engaging. It is possible to access information about

	(in particular within the areas prioritized by the target communities) and have the skills and strategies necessary to monitor and claim their rights					relevant public policies and budgets.
	Op.1.3. Innovative approaches to address self-identified human development needs of indigenous communities have been piloted.	Op1.1.3. The number of beneficiaries of pilot initiatives per human development sub-sector/SDG target) in each country	Op1.3. Baseline: 0	Op1.3.Target: TBD during inception phase	Op 1.3. MoV:Project activity reports, community based evaluations Project progress reports, mid-term review and evaluation reports.	Funds will be sufficient to pilot innovative solutions and local communities will actively engage in the planning and implementation

	<p>Op.2.1. Cooperation between local indigenous communities and local government-agencies has been established or enhanced in target areas in 11 countries in Latin America, Africa and Asia</p>	<p>Op1.2.1 The number of MoU or other types of commitments established between indigenous communities /local organisations and local governments / service providers</p>	<p>Op 2.1. Baselines will be identified during the inception period</p>	<p>Op2.1.Target: TBD during inception phase</p>	<p>Op.2.1. MoV: Minutes from dialogue initiatives and MoU. To be included in yearly project-progress reports by partners, and in mid-term review and evaluation reports by external consultants.</p>	<p>The political environment in target municipalities or other relevant political administrative entities will be favourable to the action and willing to engage in dialogue</p>
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	<p>Op.2.2 Lessons learned from rights-based, culturally adequate and participatory pilot projects in indigenous communities have been documented and brought to the attention of relevant local and national development planners and policy-makers (government and non-government</p>	<p>Op1. 2.2. Number of public events (meetings, radio programs etc.), per target area and country, where lessons learned and proposals for policy change have been presented to policy-makers at local and national level</p>	<p>Op.2.2. Baseline: 0</p>	<p>Op 2.2: At least one product (video, podcast, report) and one event per target area.</p>	<p>Op 2.2. MoV: Communication strategies, invitations, list of participants, press statements, press clippings, social media, copies of reports, podcasts, videos, infographics and other communication products. To be collected and submitted by</p>	<p>Technical capacity available to document result and reach out to duty bearers and stakeholders in relevant fora and media</p>
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	actors) engaged with social protection and service delivery and planning of SDG-implementation in the relevant sectors.				national partners in yearly progress reports.	
Activities	<p>What are the key activities to be carried out, to produce the outputs?</p> <p>A 1.1.1. – “ Participatory community workshops to identify and prioritize needs and develop concrete project proposal “ (related to Op 1.1.)</p> <p>A 1.2.1. – “Training workshops for community leaders and local indigenous authorities on monitoring of public policies and budgets and</p>				<p>Means: What are the means required to implement these activities, e. g. staff, equipment, training, studies, supplies, operational facilities, etc.</p> <ul style="list-style-type: none"> • Staff at country lead HQ and national partner office • External consultants • Funds to implement pilot 	<p>Factors outside project management’s control that may impact on the output-outcome linkage.</p>

	<p>lobbying of local governments for policy and programme change as well as fundraising” (related to Op 1.2.)</p> <p>A 1.2.2. – “Information materials produced, localised and/or disseminated to indigenous communities and organisations on relevant public laws, policies, programmes and budgets as well as indigenous strategies (on e.g. national implementation of the SDGs)” (related to Op 1.2.)</p>	<p>projects (small grants)</p> <ul style="list-style-type: none"> • PD for country leads and national partners to monitor project, contribute to trainings, meetings etc. • International flight tickets for country leads to monitor project and contribute to trainings • Local transportation for country leads, national partners, and local participants, including local flights, public transportation, rent of cars and boats, gasoline according to circumstances. • Meeting venues and consumption for training and meetings. • Local office costs and supplies for national partners • IT equipment (lap top, projector for surveys and meetings) 	<ul style="list-style-type: none"> • Political situation in target countries is unfavourable and receptive for increased visibility and attention to indigenous peoples’ issues and development. • Political and operational space for non-governmental organizations is decreasing • The relations between the state and indigenous peoples and
	<p>A 1.3.1. – “ Implementation of pilot projects with the aim to improve access to rights-based, culturally adequate and participatory social services and social protection” (related to Op 1.3.)</p> <p>A 2.1.1. – “Dialogue meetings between community leaders and relevant duty-bearers and stakeholders to seek alliances and cooperation on project implementation and co-financing” (related to Op 2.1.)</p>		

	<ul style="list-style-type: none"> • Documentation equipments: (Cameras, phones, microphones, rent of audio or video studio and editing tools) for national partners 	<p>their organizations and networks are constructive and favour a climate of dialogue</p> <ul style="list-style-type: none"> • Development actors in target countries are unwilling to engage. • States step back from their relevant international commitments. • Disagreements among indigenous peoples at the community, local and country levels.
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Annex 3: Human Rights Instruments Ratified by Nepal

No.	Name of instrument *	Signature	Ratification Accession (a) Succession (d)
1	Slavery Convention of 1926, 25 September 1926 as amended (23 October 1953)	-	7 Jan 1963 a
2	Amendments to the Slavery Convention (1926), 1953	-	7 Jan 1963 a
3	Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 7 September 1956.	-	7 Jan 1963 a
4	Convention on the Political Rights of Women, 20 December 1952	-	26 Apr 1966 a
5	Convention on the Prevention and Punishment of the Crime of the Genocide, New York, 9 December 1948.	-	17 Jan. 1969 a
6	International Convention on the Elimination of All Forms of Racial Discrimination, New York, 7 March 1966.	-	30 Jan. 1971 a1

7	International Convention on the Suppression and Punishment of the Crime of Apartheid, 30 November 1973.	-	12 July 1977 a
8	Convention on the Rights of the Child , 20 November 1989.	26 Jan. 1990	14 Sep. 1990
9	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict , 25 May 2000.	8 Sept. 2000	3 January 2007a
10	Convention on the Elimination of All Forms of Discrimination Against Women , 18 December 1979.	5 Feb 1991	22 April 1991
11	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 6 Oct 1999	18 Dec 2001	15 June 2007
12	International Covenant on Civil and Political Rights , 16 December 1966.	-	14 May 1991 a

13	International Covenant on Economic, Social and Cultural Rights , 16 December 1966.	-	14 May 1991 a
14	Optional Protocol to the International Covenant on Civil and Political Rights , 16 December 1966.	-	14 May 1991 a2
15	Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty , New York, 15 December 1989.	-	4 Mar. 1998 a
16	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment , New York, 10 December 1984	-	14 May 1991a3

Note: Ministry of Law, Justice, Constituent Assembly and Parliament Affairs has listed only 24 Human Rights related instruments to which Nepal is a party.

Annex 4: Fourth Human Rights Plan matrix of Nepal government: Rights of Indigenous Peoples

SN	Objective	Action/ Program	Responsible body	Cooperating agencies	Implemen- tation Period	Means of verification or implemen- tation indicator
1.	Make new law to protect and conserve the equal rights of indigenous peoples based on Human Rights principles and standard.	<ul style="list-style-type: none"> - To review all existing laws related to IPs and to make new laws. - To approve already made National Action Plan for the implementation of ILO c. no 169 by 	<ul style="list-style-type: none"> - Ministry of local development and federal affairs 	<ul style="list-style-type: none"> - National Foundation for the Development of Indigenous Nationalities. - Local bodies 	Continual	<ul style="list-style-type: none"> - Implemented the action plan for the implementation of ILO c. no 169 Made new laws by reviewing all existing laws related to IPs.

					<p>the government, and to review the existing laws and refine and make new laws based on that national action plan.</p> <p>- To design programs in line with UNDRI and implement them. In the context of International convention on climate change already</p>		
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2.	To respect and protect the rights of IP	<p>ratified by Nepal and being a member of WTO, to make a law in coordination with Forest and Environment Ministry that addresses the protection and development of indigenous peoples</p> <p>- To protect the heritage, language, script, culture</p>	Ministry of local development and federal affairs	- National Foundation for the Development	Continual	- Documented the language of endangered IPs
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		<p>and historical and religious sites.</p> <ul style="list-style-type: none"> - To protect language, script and culture of endangered IPs. - To protect museum for the protection of IPs culture. - To conduct literacy program, to build dictionary and grammar of mother tongue and to publicize them. 		<p>of Indigenous Nationalities.</p> <ul style="list-style-type: none"> - Local bodies 		<ul style="list-style-type: none"> - Publication of grammar and dictionaries of IPs language (mother tongues) - Listed the religious historical sites, and organized festivals for the protection of them in partnership with local level organizations. Conducted model village building program and managed IPs museum.
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	<p>3. To protect the education rights of IPs children and adults</p>	<p>conduct awareness program. Developing model village and manage IPs museum.</p>	<p>Ministry of local development and federal affairs</p>	<p>- Ministry of Education - CTEVT - National Foundation for the Development of Indigenous Nationalities. Local bodies</p>	<p>Continual</p>	<p>- Ready of technical human resources from endangered and marginalized IPs Employed those technical human resources in private and public sectors.</p>
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4.	To update the data to determine the poverty situation of IPs	<ul style="list-style-type: none"> - Collection data continually to get the information of various aspects of IPs. - Research study of economic, social, cultural, linguistic and various aspect of IPs. Publication of best materials. 	Ministry of local development and federal affairs	<ul style="list-style-type: none"> - B of statistics - National Foundation for the Development of Indigenous Nationalities. Local bodies 	Continual	<ul style="list-style-type: none"> - Found or seen the research study on IPs Ready/ prepared the ethnographic profile of IPs.
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5.	To increase the opportunity of employment for IPs community.	<ul style="list-style-type: none"> - Skill development training and small loan program for IPs - Increase domestic and foreign employment - Income generation program and support based on traditional knowledge, skills and interest. - Economic and social development program endangered 	Ministry of local development and federal affairs	<ul style="list-style-type: none"> - Ministry of labor and employment - Ministry of industries - National Foundation for the Development of Indigenous Nationalities. - Local bodies CETVT 	Continual	<ul style="list-style-type: none"> - Built shelter for endangered and marginalized IPs - Exported the produced things such as hand loom clothes, clothes from allo etc based on traditional knowledge and skills.
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6.	To protect and promote the technology, skills and arts of IPs	<ul style="list-style-type: none"> - Conduct campaign for the protection of IPs technology, skills and arts. - Conduct supporting program for IPs institutional development and strengthening. - Conduct awareness and empowering program Conduct leadership development and capacity enhancing program. 	Ministry of local development and federal affairs	<ul style="list-style-type: none"> - Ministry of industries - National Foundation for the Development of Indigenous Nationalities. Local bodies 	Continual	Income increased by making goods from betbas and Thanka
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7.	To provide employment to local IPs and dalit as far as possible while building new cities.	<p>- Provide employment to local IPs and dalit as far as possible while building new cities.</p> <p>- Organizing program for giving information about infrastructure development. Giving first priority to individuals having required skills and capacity.</p>	Ministry of Urban Development	- Municipality Development Committee Local bodies.	Continual	Number of IPs and dalit working in cities that are building.
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Note: The plans made other heading in 4th HRs action plan are also related to indigenous peoples but the plan has not specified for indigenous peoples.

Annex: 5: Nepal – IPs rights and SDGs monitoring framework matrix

IPs rights as per ILO 169, UNDRIP and other international instruments	Policy commitment (by Nepal government) and legal obligation			SDGs plan of Nepal government	Implementation status	Gaps	Needs of further targeting
	International HR instruments	Constitution of Nepal	Acts and policies				
1. Autonomy and self-rule/self-government	<ul style="list-style-type: none"> • UNDRIP article 4 ensures autonomy and self-government of IPs. <p>Note: Nepal has voted for UNDRIP.</p>	<ul style="list-style-type: none"> • Constitution of Nepal mentions in preamble • Article 56 (5) provisioned that Special, 	-	No plan and polices for IPs	No law is made as per the international instruments and, as per constitution article 56 (5).	Lack of law to implement UNDRIP article 4, and provision of constitution article 56 (5).	

3.	Self-determined development	<ul style="list-style-type: none"> Article 1 of ICCPR and ICESCR, and Article 7 of ILO c.no 169 	-	-	No plan and polices for IPs	No plan for IPs	No law is made	No law is made to implement article 1 of ICCPR, ICESCR, article 7 of ILO c. no 169.	
4.	Full enjoyment of all human rights and fundamental freedoms	Article 3 of ILO c. no 169	-	Respect and follow of Human rights that is mentioned in preamble	HR plan of NG 2014/15-2018/19: Theme 12 committed to <ul style="list-style-type: none"> To assess all the existing laws related 	No specific plan for IPs	National Action Plan for the implementation of ILO c. no. 169 is approved by council of minister (Government)	- For the implementation of ILO c no 169, National Action Plan is be made. Refinement, amendment and new	

from the government, and to refine existing laws based on the provisions of ILO Convention No. 169.
• To implement the United Nations Declaration on

8.	Collective rights and non-assimilation	• Article 1 and 8 of UNDRIP	-	-	-	No plan and policies for IPs	No plan for IPs	No law to regulate collective rights	
9.	Right to live in their lands and territories without any disturbances	• Article 26 of UNDRIP • Article 14 of ILO 169	-	-	-	No plan and policies for IPs	No specific plan for IPs	No law to regulate IPs right to land, territories and resources.	
10.	Free prior informed consent related to their matter	• Article 11 of UNDRIP • Article 16 of ILO 169	-	-	-	No plan and policies for IPs	No plan for IPs	No law and regulation.	

11.	Right to continue exercise their customary laws, dignity and diversity	<ul style="list-style-type: none"> Article 11 of UNDRIP Article 8 of ILO 169 	-	Recognition of customary laws relating to marriage, particularly in relation to certain categories of incestuous relation (Country Civil (Code) Act 2017 Section 70.2.	No plan and polices for IPs	No plan for IPs		No single law to regulate customary law.	
12.	Right to establishment of their own media	<ul style="list-style-type: none"> Article 16 of UNDRIP 	-	Press and Publication Act 1991 - No prohibition to establish media.	No plan and polices for IPs	No plan for IPs	Freedom in media is being implemented.	-	

13. Right to control over their language education system	<ul style="list-style-type: none"> Article 14 of UNDRIIP 	-	<p>Education Act 1971 and Compulsory and Free Education Act 2018 : no provision in both.</p>	<p>4th HRs plan of government has planned on education and language of IPs (See annex 5)</p> <p>14th plan (2073/74-2075/76 BS or 2016/17-2018/19 AD); planned for IPs To</p>	<p>No specific plan for IPs but in has planned for inclusive education.</p>	<p>Education through mother tongue is not implemented till to date.</p>	<p>No responsibility and accountability of government.</p>	
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14. Right to land, territories and natural resources (traditional land)	<ul style="list-style-type: none"> • Article 26 of UNDRIP • Article 14, 15 and 16 of ILO 169 	-	<p>Country civil (code) Act 2017 recognize communal/ collective land and building or other properties as communal/ collective property (Section 301) with ensured entitlement (Section 303.2.)</p>	<p>14th plan (2073/74-2075/76 BS or 2016/17-2018/19 AD): planned for IPs To ensure access in means and resources, service and facilities.</p>	No specific plan for IPs	Individual right to land is being implanted but collective right of IPs to land is not implemented.	No single law to regulate traditional lands (right to lands, territories and re-sources) of IPs.	
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15.	Right to protecting environment	Article 29 of UNDRIP	-	-	No plan and policies for IPs	No specific plan for IPs	-	No clarity in the provision	
16.	Right to cross-boarders contact and	Article 36 of UNDRIP Article 32 of ILO 169	-	-	No plan and policies for IPs	No specific plan for IPs	-	Lack of law	
17.	Right to follow the treaties held with them	Article 37 of UNDRIP	-	-	No plan and policies for IPs, and no policy of government on it.	No plan for IPs	-	Lack of law and policies	
18.	Right to participate in decision-making in	Article 18 of UNDRIP	-	-	14 th plan (2073/74-2075/76 BS or	No plan specific plan for IPs	Laws related inclusion	Lack of law and policies	

<p>matters which would affect their rights, through their representatives chosen by themselves and own process.</p>			<p>2016/17-2018/19 AD): has planned for IPs Policy program targeted to refine amend and make new laws by reviewing polices, acts and laws related to inclusion.</p>	<p>in not made to date.</p>	
<p>Note: 14th plan (2073/74-2075/76 BS or 2016/17-2018/19 AD): has also planned for IPs</p> <ul style="list-style-type: none"> - Policy program targeted to refine amend and make new laws by reviewing polices, acts and laws related to inclusion. - To conduct employment oriented sills program - To modernize the traditional occupation of IPs 					

Annex 6: Progress report of Nepal government on the plan related to indigenous peoples (including under Federal Affairs and Local Development Ministry)-implemented in the fiscal year 2072/73 BS (2015/16 AD)

Actions completed among the activities mentioned in the plan	Received results	Action to be done	Time to take for the completion of rest work	Major problems faced during the implementation
To make rules of Caste based Discrimination and Untouchability (Offence and Punishment) Act 2075 (2018 AD)	<ul style="list-style-type: none"> Rules of Caste based Discrimination and Untouchability (Offence and Punishment) Act 2075 (2018 AD) is in the process of making. Integrated report of CERD is made and sent to UN via Ministry of Foreign Affairs. 	All are in process	2 weeks	
To refine or make new laws for the protection of IPs rights by reviewing the existing laws based on the National Action Plan for the implementa-		No National Action Plan is made yet.	-	-

<p>tion of ILO c. no 169 approving by the government (cabinet meeting).</p>	<p>Make new law to protect and conserve the equal rights of indigenous peoples based on Human Rights principles and standard.</p>		<ul style="list-style-type: none"> - To review all existing laws related to IPs and to make new laws. - To approve already made National Action Plan for the implementation of ILO Convention No. 169 by the government, and to review the existing laws and refine and make new laws based on that national action plan. - To design programs in line with UNDRI and implement them. In the context of International convention on climate change already ratified by Nepal and being a 				
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	<p>member of WTO, to make a law in coordi-nation with Forest and Environment Ministry that addresses the protection and development of indigenous peoples</p>			
<p>To respect and protect the rights of IPs</p>	<ul style="list-style-type: none"> - To protect the heritage, language, script, culture and historical and religious sites. - To protect language, script and culture of endangered IPs. - To protect museum for the protection of IPs culture. - To conduct literacy program, to build dictionary and grammar of mother tongue and to 			

	<p>publicize them.</p> <ul style="list-style-type: none"> - To conduct training for teachers and support program - To collect histories, music, folk songs, folk stories and sayings of IPs. - To conduct cultural festivals and programs - To support concerned IPs and communities for festival, celebration, religion and to conduct awareness program. <p>Developing model village and manage IPs museum.</p>		
<p>To protect the education rights of IPs children and adults</p>	<ul style="list-style-type: none"> - Conduct special program to increase access of IPs in technical and vocational education. 		

<p>To protect and promote the technology, skills and arts of IPs</p>	<ul style="list-style-type: none"> - Economic and social development program endangered and marginalized IPs. - Building shelter for endangered IPs - Conduct Chepang development program - Conduct employment oriented traditional and modern professional training. - Conduct women leadership and capacity development program 			
<p></p>	<ul style="list-style-type: none"> - Conduct campaign for the protection of IPs technology, skills and arts. - Conduct supporting program for IPs institutional development and strengthening. 			

	<ul style="list-style-type: none"> - Conduct awareness and empowering program - Conduct leadership development and capacity enhancing program. 		
<p>To provide employment to local IPs and dalit as far as possible while building new cities.</p>	<ul style="list-style-type: none"> - Provide employment to local IPs and dalit as far as possible while building new cities. - Organizing program for giving information about infrastructure development. - Giving first priority to individuals having required skills and capacity. 		



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