

# Impact of Dhorpatan Hunting Reserve and Chitwan National Park on Indigenous Peoples in Nepal



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**Published on May 2022 by**

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KIOS Foundation

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## Acknowledgments

We express our special thanks to Dr. Indra Mani Rai, Assistant Professor of Tribhuvan University, Faculty of Education, who successfully led the research team members (Advocates Shankar Limbu, Dinesh Ghale, and Durga Mani Rai) in collecting, analyzing, and reporting the information of human rights violation of Indigenous Peoples in Dhorpatan Hunting Reserve and Chitwan National Park. We would like to acknowledge the contributions of affected Indigenous Peoples in providing information of pains created in the protected areas. Our heartfelt thanks go to the indigenous activists/leaders Mr. Purna Bahadur Gharti Magar and Mr. Surendra Pun Magar, who rendered untiring support to us to inform and ensure the participation of community members in the discussion and explore the realities of human rights violations of Magar in the adjoining villages of Dhorpatan Hunting Reserve (DHR). We appreciate their roles in making the informal interviews happen with the village chieftains and other knowledgeable people. We express our deepest appreciation to them for making an invited observation of the phenomena of rights violations. We are also thankful to them for providing several documents related to their movements, the history, and language of Magar, and other non/indigenous communities.

We express our special thanks to Bote Indigenous Peoples of Baghkhori village of Kawasoti Municipality, Nawalparasi, Kolwa village of Madhyabindu Municipality, Nawalparasi, Tharu of New Padampur, Kalika Municipality, Chitwan and Chepang of Parui river bank of Madi Municipality, Chitwan for providing information on the impact of Chitwan National Park on them. We would like to thank the activists and community members who facilitated to collect information for this study in the area. We are very much grateful to particular local political leaders who provided invaluable encouragement in accelerating the voices of suppressed Indigenous Peoples. We are also thankful to Dr. Rebat Dhakal who supported in language editing and reviewing the report. Finally, we appreciate the contribution of Mr. Krishna Rai (Yamphu) in formatting the report.

Last but not least, we would like to thank the KIOS Foundation, Finland for providing funds to conduct this research study and to advance advocacy to self-determined development.

**Advocate Shanti Kumari Rai**  
**Chairperson, LAHURNIP**

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## Acronyms

AIPP:	Asia Indigenous Peoples Pact
AICSRC:	Amnesty International and Community Self-Reliance Centre
BS:	Bikram Sambat
BZMCs:	Buffer Zone Management Committees
CBD:	Convention on Biological Diversity
CBS:	Central Bureau of Statistics
CERD:	Committee on the Elimination of Racial Discrimination
CFUG:	Community Forest Users' Group
CNP:	Chitwan National Park
DHR:	Dhorpatan Hunting Reserve
DHRO:	Dhorpatan Hunting Reserve Office
FPIC:	Free Prior and Informed Consent
GP:	Guard Post
ICESCR:	International Covenant on Economic, Social and Cultural Rights
ILO C:	International Labor Organization Convention
IPO:	Indigenous Peoples' Organization
LAHURNIP:	Lawyers' Association for Human Rights of Nepalese Indigenous Peoples
NCA:	Nepal Chepang Association
NFDIN:	National Foundation For Development of Indigenous Nationalities
NIWF:	National Indigenous Women's Federation
NPWCA:	National Parks and Wildlife Conservation Act
NTNC:	The National Trust for Nature Conservation
RO:	Ranger Office
RP:	Range Post
SDGs:	Sustainable Development Goals
UNDRIP:	United Nations Declaration on the Rights of Indigenous Peoples
UNESCO:	The United Nations Educational, Scientific and Cultural Organization
VDC:	Village Development Committee
WWF:	World Wide Fund for Nature

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## Executive Summary

The state systematically seized the collective ancestral lands and natural resources of Indigenous Peoples through Royal Decrees during the Kings' authoritarian ruling period. Subsequently, phased Land Cadastral Surveys and the introduction of several policies curtailed their pre-existing rights over lands and natural resources. The titles of the lands were shifted to the individuals and state. As such, the state landlordism (*Raikar, Jagir, Birta tenure*) in the Rana and Panchayat regime and nationalization of natural resources through state legislations deprived the Indigenous Peoples of their ancestral lands. Particularly, the Forest Act 1993 divided different types of forests, including protected areas. Dhorpatan Hunting Reserve (DHR) is the only hunting reserve in the country that was declared in 1983 in the mid-Western mountain region -the traditional lands of Magar. Chitwan National Park (CNP) is another protected area established in 1973 as the first national park of Nepal in the totalitarian Panchayat regime in the ancestral lands of the Tharu indigenous group- *Tharuhat*. However, there are several other Indigenous Peoples, such as Bote, Chepang, and to name a few residing for centuries. They have been facing massive human rights violations since establishing these protected areas. In this context, this research explores the multi-dimensional impacts of DHR and CNP on Magar, Bote, Tharu, and Chapang.

The research was based on non/indigenous research methodologies. The researchers adopted flexible ways of knowing through informal talking, group discussions, and observation of the phenomena of violations of human rights of Indigenous Peoples in the surrounding area of DHR and CNP. They tried to understand the experiences and views of the most affected community members and older people who had experiences of their past cultural and religious practices. They explored the experiences of political cadres, representatives of local governments, and activists. The data were transcribed, edited, and coded. Following that, the data were categorized into ideas, thereby generating key themes. The data were presented in detail and analyzed and interpreted from an indigenous legal perspective.

## Key Findings

1. With the declining practices of transhumant pastoralism, on the one hand, the Magar have been losing their economic relationships with the land territories and resources. On the other hand, the language of Magar, which has an intrinsic connection with the land territories and resources, is also under serious threat of loss. Further, they have been isolated from their customary land tenure systems on which they had a tradition of using particular parcels of lands collectively allotted over clan groups. They have been loosening their ties to the customary ways of life, customary laws, and transhumant management.
2. The restriction on the use of rangelands threatens to weaken the traditional institution of Magar through which they have been exercising their autonomy and self-determination. The socio-political system of Magar, *Kachahari*, which has a close association with transhumant management, spirituality, and socio-cultural practices, was under threat of extinction. With this, they have gradually been detached from the customary laws of using rangelands, life ways, and traditional governance.
3. Disassociation of Magar with the lands and natural resources is detrimental to the traditional livelihoods and enormous body of indigenous (technology) knowledge, cultural, and spiritual practices.
4. The militarization at DHR has caused abuses, harassment, threat, illegal arrest, and detention of the Magars. Many detainees have been illegally kept and tortured in the camps for several days without any legal processes. The DHR has criminalized the customary practices of living of local Indigenous Peoples. Thus, they have been facing intimidation and heteronomy for several years whilst adopting their customary practices of living based on natural resources.
5. Despite the continued peaceful objection, Magar communities were neither recognized as an indigenous group nor informed, consulted,

and participated in the processes of declaring mobilization of armies and buffer zone at DHR. Political cadres of the major political parties and the representatives of local governments were consulted in the processes that favoured continuing the interest of DHR.

6. The management of DHR could not be associated with local development as its benefits were not shared with the local Indigenous Peoples and for their development.
7. Bote communities were completely dependent on rivers and forests. The state controlled the lands, and CNP has been implementing different domestic legal frameworks.<sup>1</sup> The collection of gold motes as the key traditional means of living of Bote communities was lost entirely due to the restrictions created by CNP. The land tenure system, the traditional institutions and governance systems such as *Mukhiya* and *Guruwa*, and indigenous technical knowledge associated with the collection of gold were almost disappeared.
8. Freedom of fishing and ferrying as alternative means of living were controlled and limited under particular criteria. Limited Bote fishers with licences issued by the park were engaging in fishing activities. Still, they have been facing multiple violence time and again, such as seizing of their fishing nets and boats, blaming as criminals, detention, and allegation. Further, they have been facing threats and fear of being accused of illegal activities.
9. With disassociation with the river and forest, Bote have almost lost their spiritual/religious and cultural practices, which were/are linked intrinsically with the natural resources. With the loss of their religious practices (such as *Badko Barne/Gandaki Pooja*), they have lost their indigenous institutions and associated indigenous cultural values, beliefs, and worldviews. It has become difficult to sustain their key

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1 National Parks and Wildlife Conservation Act, 2029 (1973), National Parks and Wildlife Conservation Rules, 2030 (1974), Forest Act, 2019, Buffer Zone Management Rules, 2052 (1996)

rituals, festivals, and ceremonies such as birth, marriage, and death rituals, which are not possible without fish and other forest products.

10. Ecological knowledge and skills of Bote generated by themselves through primitive interaction with the river and forest have been exploited by the park authorities as they have been engaged in collecting eggs and hatchlings of crocodiles for a meagre amount of wages.
11. Bote communities have been evicted from their traditional land territories (river, riverbanks, and forest areas) and limited to a small holding with no alternative means of livelihood. They have not been provided land registration certificates and compensation for their involuntary displacement from their ancestral lands.
12. The traditional livelihood activities of Bote, such as fishing, collection of wild nuts and vegetables, ferrying, collecting aquatic species, use of forest products, and so on, have been criminalized. They have been facing intimidation, threat, blaming, fear, allegation, and detention while adopting their customary livelihood activities.
13. The Tharu people have been evicted by CNP from their ancestral lands (Padampur), converting them to landlessness or near landlessness. Most of them were limited to being small landholders with less freedom and autonomy in adopting customary living and lifestyles based on natural resources. Many of them were poor with vulnerable livelihoods. They have been compelled to adopt wage labouring and a few of them in banana farming. The alternative means of livelihood were inadequate to support the basic living requirements.
14. The traditional governance system of the Tharu peoples has been lost in the new context due to the powerful modern state structure. They have been acculturated with the mixed communities migrated from different parts of the country.



15. The Tharu festivals, rituals, and ceremonies are hardly conducted in New Padampur. The context with less access to appropriate natural resources could not provide them with the space to adopt ancestral practices. Many cultural practices have almost lost their essence and hence became rituals for the sake of continuity maintained by a few who have the sensation of preserving and protecting those traditions.
16. The Tharu religious practices (worshipping deities) associated with paddy farming were almost lost as most of them had no cultivable lands at New Padampur. The relocation of the Tharu has isolated them from spiritual relationships with nature. Thus, the religious practices of the Tharu were at risk of disappearance.
17. With the eviction of the Tharu from their traditional lands, they were disconnected from the customary living based on surrounding natural resources. With the loss of traditional livelihoods, they were compelled to lose the indigenous knowledge they generated through continuous interaction with the surroundings and passed down from generation to generation. In many cases, the park authorities have exploited their indigenous/ecological knowledge, using them in conservation activities.
18. The Chepang were repeatedly dislocated from their traditional lands with the inhuman treatment of park authorities. It was without FPIC and alternative measures of livelihood. The dislocation without any compensation compelled them to fall under the vicious circle of economic poverty with landlessness and denial of use of natural resources. They were living without adequate food and proper shelter/houses. They were forced to engage in low-paid wage labouring and tenant farming for their survival.
19. The Chepang have been treated as the offenders whilst adopting their customary practices of livelihood such as fishing and collecting forest products. The customary ways of living based on natural resources were criminalized. They were repeatedly accused of poaching and

trapping wild animals. Thus, they were alleged and detained for several days with inhuman torture, threats, and were even killed.

## **Key Recommendations**

Based on the key findings and discussion of human rights violations of affected Magar at DHR and Bote, Tharu, and Chepang at CNP, the following recommendations are made.

1. The government has to recognize that the Indigenous Peoples have pre-existing rights on their ancestral lands, territories, and natural resources. The national policy frameworks need to be amended considering the inherent and inviolable rights of the Indigenous Peoples recognized by ILO Convention 169 and UNDRIP. In other words, the government has to respect the Indigenous Peoples' autonomy and right to self-determination in managing their lands, territories, and resources, including transhumant pastoralism.
2. Indigenous Peoples' right to self-management or co-management enshrined under the ILO Convention 169 and UNDRIP needs to be implemented to end ongoing conflicts between the Indigenous Peoples and the Protected Areas to restore the concept of harmonious relationships between people and nature. In this regard, the NPWC Act, 1973 and associated regulations and policies need to be amended in line with ILO Convention 169, CBD, UNDRIP, and other international instruments that Nepal is a party to.
3. FPIC must be respected while introducing, amending, implementing, reforming laws and policy, plans, programs, and processes concerning the protected areas, including DHR, CNP, etc.
4. Militarization at DHR and CNP has caused a lot of serious human rights violations, including insecurity, denial of dignified right to life, fundamental freedoms of movement, speech, and acquiring basic livelihood requirements even from their statutory lands. Thus,

immediately, the camps of the Nepal Army are to be ousted. Bring perpetrators of human rights violations immediately under the legal prosecution in the civil court with the commission of independent investigation.

5. The government has to recognize and respect that Indigenous Peoples and the lands, territories, and resources have symbiotic relationships. The indigenous knowledge, customary laws (Pre-existing rights), and practices associated with their lands, territories, and resources play a crucial “role in conserving the nature, food production, forestry development, medicine, sustainable practices, land and resource management and ecotourism, climate change, and disaster risk reduction” (Sultana et al., 2018, p. 18902). Irresponsive to the fact is the insensitiveness toward Sustainable Development Goals (SDGs) that envisage the intrinsic relationships of social, economic, and environment for sustainability.
6. The state has to respect that the Indigenous Peoples have cultural, spiritual/religious, economic, and linguistic relationships with the lands, territories, and natural resources. Thus, any form of forced eviction of Indigenous Peoples from their lands, territories, and natural resources is the loss of their identity and is inconsistent with Article 11 of the ICESCR, 1966 and relevant jurisprudence, which could be termed an engraved human rights violation.
7. The state has failed to incorporate the basic human rights of Indigenous Peoples such as recognition, consultation, participation, FPIC, and right to self-determination in the laws and processes of management of DHR and CNP. It has excluded Indigenous Peoples in decision making *inter alia* in the deployment of armies and in identifying planning and the processes of the declaration of the buffer zone at DHR. Disregarding the international human rights instruments, the FPIC was completely violated while dislocating Bote, Tharu, and Chepang at CNP.

8. Indigenous Peoples in the affected areas of DHR and CNP were under landlessness and virtually landlessness. Most of them were in poverty with vulnerable livelihoods and homelessness. Thus, the state has to take immediate action to provide proper housing and enhance the livelihoods of those peoples, particularly in the case of Chepang. This historical land injustice is the core cause of the plight of Indigenous Peoples. The problems need to be addressed by providing compensatory lands or alternative measures such as self-management or co-management as prescribed by the 23rd General Recommendation of CERD, Article 28 of the UNDRIP, Article 16.3 of the ILO Convention 169 and associated jurisprudence.
9. World Wide Fund for Nature (WWF) has technical support in the DHR buffer zone declaration process and management of CNP. The memorandum of agreement between the Government of Nepal and WWF specifies the condition of respecting the rights of Indigenous Peoples. Instead, it has trained the authorities of protected areas to criminalise indigenous customary practices of living. Thus, it is essential to respect and implement the human rights of Indigenous Peoples at DHR and CNP effectively.
10. WWF must comply with the recommendation of the Independent Panel of Experts of the Independent Review of allegations raised in the media regarding human rights violations in WWF's conservation work (17 November 2020) and implement FPIC reforming the existing guidelines in meaningful consultation with the affected communities.
11. The state should establish an independent and competent mechanism with a clear jurisdiction to combat human rights violations against Indigenous Peoples in the protected areas.

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## Section I: **Background and Methodology**

This section deals with the background of the protected area, particularly Dhorpatan Hunting Reserve (DHR) and Chitwan National Park (CNP) and the key affected Indigenous Peoples under study. The section introduces how they were systematically evicted against international laws from their ancestral lands in which they had symbiotic relationships. It highlights that their dislocation was not an exceptional case having a prior settlement arrangement under the existing national laws of Nepal. It stresses the context of affected villages or settlements based on the current governance structure. In addition, the section articulates the non/indigenous methodologies and methods the team of researchers used in the process of engagement in the fields and working with information on human rights violations.

### **1.1 Background**

Almost one-fourth (23.39%) of Nepal's land is shielded as protected areas, including 12 National Parks, 1 Wildlife Reserve, 1 Hunting Reserve, 6 Conservation Areas, and 13 Buffer Zones (Amnesty International and Community Self-Reliance Centre [AICSRC], 2021). The protected areas are extended to the ancestral lands of diversified Indigenous Peoples from lowland Terai to high mountains. Magar, the largest group of Indigenous Peoples among 59 groups, occupies 7.1% of the total population of Nepal and is one of the most affected groups by the protected areas (National Foundation for Development of Indigenous Nationalities [NFDIN], 2002). Dhorpatan Hunting Reserve (DHR) is the only reserve declared in 1983 by a totalitarian Panchayat regime to fulfill the desire to promote sports hunting and conserve natural resources. It covers an area of 1325 sq.km

of *Magarat*<sup>2</sup>, occupying 60% of Rukum, 26% of Baglung, and 14% of Myagdi district in the Dhaulagiri mountain range of mid-Western Nepal (Dhorpatan Hunting Reserve Office [DHRO], 2019). The core area of the reserve covers the parts of Dhorpatan Municipality and Taman Khola Rural Municipality of Baglung, Putha Uttarganga Rural Municipality of Eastern Rukum, and Dhaulagiri Rural Municipality of Myagdi district. A majority of Magar Indigenous Peoples live in 53 settlements inside and outside adjoining villages of the reserve. However, other non/Indigenous Peoples such as Bishowkarma, Nauthar (Adai, Mote Adai, Bhandari, Chhota Bhandari, Kayat, Kather, Kumai, Khadka, and Thapa), Chhantyal, Thakali, and Gurung are also residing there for centuries.

Chitwan National Park (CNP) is another protected area as the first national park of Nepal in the totalitarian Panchayat regime in the ancestral lands of the Tharu indigenous group, *Tharuhat*. The park, established in 1973, is situated in south-central Nepal, covering 952.63 sq. km. in the subtropical lowlands of the inner Terai, recognizing its unique ecosystems of international significance (McLean, 1999). UNESCO declared it a World Heritage Site in 1984. It covers an area of 750 sqkm surrounding the park declared as a buffer zone in 1996, which consists of forests and private lands, including cultivated lands (McLean, 1999). Nepal's government has provided 30-50 percent of the park revenue for community development and natural resource management in the buffer zone. The park came under the protection of the Nepal Army from 1975 onwards. The most affected Indigenous Peoples are Tharu, Bote, Chepang, and others (Kumal, Darai, etc.). They were coercively evicted from their traditional lands.

### The Tharu have occupied most of the districts of the inner low lands

- 2 Magarat is the ancestral lands of Magar indigenous group [the largest group with 7.13% (18,87, 733) of total population of Nepal] that covers large area ranging from the watersheds of Gandaki River to the west up to Karnali River and Magarat was divided into two regional groups known as 12 Magarat and 18 Magarat (Magar & Roka, 2003). Majority of Magar community is concentrated in western and mid-western hills like Rukum, Rolpa, Baglung, Myagdi, Puthan, Salyan, Mugu, Palpa, Dang on the basis of their population.

from East Jhapa to West Kanchanpur. The Tharu have a total population of 17,37,470 (Central Bureau of Statistics [CBS], 2012) with a distinct language, culture, way of life, customs, script, history, and civilization. There are linguistic and cultural differences among the groups<sup>3</sup> of the Tharu. They have strong economic, spiritual, and cultural links to the forests. They are under minority in the Chitwan region due to the influx of external people from different parts of the country, forcing them to change their patterns of living and lifestyles. Before the land registration system and land reform in the early nineteen sixties, the Tharu in Chitwan were a semi-nomadic people who practised shifting cultivation (McClean, 1999). They had natural resource-based subsistence livelihoods. They depended on hunting animals, fishing, and collecting wild nuts, fruits, vegetables, and medicinal plants. They engaged in traditional agricultural activities. The housing patterns were based on forest products.

Bote is one of the Indigenous Peoples in Nepal who mostly live along the East Rapti and Narayani rivers bordering CNP. However, there are some Bote settlements in Gorkha, Tanahu, Nawalparasi, and Lamjung<sup>4</sup> as well. According to the 2011 census, there are only 2,830 Bote who speak their mother tongue (Central Bureau of Statistics [CBS], 2012). They developed their settlements and territories along the riverbanks for centuries. They are a highly marginalized indigenous group in the surrounding areas of CNP, historically and culturally dependent on forest and river resources for a living.

Chepang is another highly marginalized indigenous group inhabiting for centuries mainly in Chitwan, Makwanpur, Tanahun, Gorkha, Dhading, and Lamjung (migrated few) districts of Nepal. The Chepang occupy 0.26 % (68,399) of the total population (2, 64, 94,504) of Nepal (Central

- 3 Tharu living in Morang district are called Khausiya (Kaushia) and other Tharu groups include Chitauniya, Lalpuria, Dangaura, Gachchhadar, Rana, Mahato, Vishwas, Sunada, Sardar, Mahantha, Vantha, Vantar, Bhajaura, Bhagat etc. Similarly, Dahit, Kushumya, Satgaonwa, Chamar, Rana, Dangaura, Katharia, Kariya Magharia etc
- 4 <https://www.nepalitimes.com/banner/chitwans-bote-people-in-a-changing-world/#:~:text=They%20mostly%20live%20along%20the,dwindling%20indigenous%20groups%20in%20Nepal.>



Bureau of Statistics [CBS], 2012). Nepal Chepang Association (NCA) notes that 70.5 % of the Chepang population speaks the Chepang language. Traditionally, the Chepang engaged in shifting cultivation and had a semi-nomadic lifestyle. Even today, they live on natural resources and hence engage in foraging wild foods and forest products. They worship *Namrung* (hunting god), *Bhumi* (lands), and *Gaidu* (Rhino). The main festival of the Chepang is *Chouseholdonam/Nwangi*, which is observed from mid-August to mid-September. They have other festivals like *Maghe Sakranti*, *Saune Sakranti*, etc. *Pande* is their spiritual leader who plays a key role in religious practices and festivals (Gurung, 1999). The cultural and religious practices are closely associated with the lands and natural resources.

The state systematically seized the collective ancestral lands and natural resources of Indigenous Peoples through Royal Decrees during the Kings' authoritarian ruling period. Subsequently, phased Land Cadastral Surveys and the introduction of several policies such as the private Forest Nationalization Act (1957), Pasture Land Nationalization Act (1974), Forest Act (1992), and to name a few ended the pre-existing rights of Indigenous Peoples over lands. The titles of the lands were shifted to the individuals and state. The state landlordism (*Raikar, Jagir, Birta tenure*) in the Rana and Panchayat regime and nationalization of natural resources through the Land Reform Act 1964, Forest Act 1961, Land Act of 1964, and Private Forest Nationalization Act 1957 dispossessed them from their land territories and resources, in which they had been indulged for generations. Forest Act 1993 and Forest Policy 2015 divided the forests into different categories: Government-managed Forest, Community Forest, Leasehold Forest, Religious Forest, and Protected Areas (National Parks, Wildlife Reserve, Hunting Reserve, Buffer Zone, and Conservation Areas). The state has managed the protected areas ignoring the primordial rights of Indigenous Peoples like Magar, Tharu, Bote, Chapang, and others. Further, policies and practices of the state (as mentioned above) were in favour of alienating them from nature which was against their fundamental human rights.

In this context, this research explores the multi-dimensional impacts on Indigenous Peoples (Magar, Bote, Tharu, and Chapang) at DHR and CNP. The methodology follows this section, and the other sections present the cases of impact created by the protected areas on the economic, social, cultural, and religious aspects of Indigenous Peoples. The key findings or insights are generated in the next section, followed by the final section of discussion of human rights violations, concluding remarks, and recommendations.

## **1.2 Methodology and Methods: Non/Indigenous Ways of Knowing**

The research was based on non/indigenous research methodologies. The research team members adopted flexible ways of knowing through informal talking and observation of the phenomena of violations of human rights of Indigenous Peoples in the surrounding area of DHR and CNP. However, the analysis of the facts was also supported by secondary information based on the literature review. The researchers engaged in each of the fields for about a week to understand the nuances of the phenomena. They tried to explore the impacts associated with the land territories and resources. They attempted to dig out the perspectives or views of the community members. The emergent nature of the inquiry stressed generating context-based realities of deprived and vulnerable Indigenous Peoples.

### **1.2.1 Research Sites and Strategies for Selecting Participants**

The research team members engaged in the most affected villages of East Rukum and Baglung districts for about six days (November 15 to 21, 2021), interacting with the community members in person and groups. More specifically, the study was conducted in the contiguous villages of DHR, such as Bhulkot village (Ward No. 6 of Nishi Khola Rural Municipality, Baglung), Bachhi Gaon, and Taka villages (Ward No. 10 of Kutha Uttar Ganga Rural Municipality, Rukum), Damchai village (Ward No. 11 of Kutha Uttar Ganga Rural Municipality, Rukum), Dhorpatan valley and Bobang (of Dhorpatan Municipality, Baglung). The research

sites were selected based on the recommendation of indigenous human rights defenders and leaders of the Magar Association (IPO) of the area. The villages closely adjoin the hunting reserve.

The research team members purposefully selected the key buffer zone areas of CNP where there were concentrations of Indigenous Peoples. For Bote communities, Baghkhori village of Kawaswoti Municipality -15 (Agyauli Village Development Committee-5 as of earlier administrative division) and Kolwa village of Madhyabindu Municipality-2 of Nawalparasi district were selected as the study sites. There were 72 households of Bote at Baghkhori and 45 households of displaced Bote at Kolwa. For the Tharu community, Kalika Municipality, Ward No. 5 (locally called new Padampur) was selected as another research site where about 450 households of the Tharu Indigenous Peoples were displaced from their traditional lands (Padampur). In addition, the bank of the Parui river at Madi Municipality - 7 was selected as another site as there were 55 Chepang households from their traditional lands, Kusum Khola.

In the area of DHR, the Magar community members and other non-Magar local people, including Dalits (*Kaami and Damai*, who are considered as a low caste group under the Hindu Caste System, which is prevalent on the *de-facto* basis in most of the country, but the caste system does not appear strictly in the Indigenous Peoples' areas) were the key participants (see Annex A) of this research as they had a primitive relationship with their ancestral land territories and resources for centuries. The women from both non/Indigenous Peoples were also involved in the study. Further, the team of researchers informally and respectfully conversed with the community chieftains of the traditional institution (*Kachhari*, which is still in practice in the area), women, and other elderly members. The approach helped us understand the customary laws for land management or management of transhumant pastoralism.

In the areas of CNP, the researchers selected those community members, including women, youths, adults, and older people (see Annex A), who had lived experiences of injustice created by the park. The informal and

spontaneous interaction with the village members helped explore the cultural, economic, and spiritual relationships of Indigenous Peoples with the lands and natural resources. Representatives of The National Trust for Nature Conservation (NTNC) were also interviewed in CNP. The research team members listened to and understood the pains created by the DHR and CNP on their traditional livelihoods and ways of living based on natural resources from the community members. In addition, they talked informally with the human rights defenders, representatives of local governments, and cadres or local leaders of major political parties.

### **1.2.2 Guideline and Information Collection Techniques**

The research team members did not believe in rigid and structured processes of field engagement with structured questionnaires. They used flexible guidelines with open-ended questions to facilitate informal conversation and discussion in a ‘*talking circle*’ (Chilisa, 2012). In so doing, they adapted a guide developed by the Asia Indigenous Peoples Pact (AIPP), which included the key overarching themes of inquiry such as “land rights, livelihood, socio-cultural practices, indigenous socio-political systems, environment/ecological system and state force/military presence” (AIPP, 2015, p. 69). The guideline was supportive of facilitating the informal interviews and group discussions in the fields.

The researchers adopted the usual conversational ways of knowing with affected Indigenous Peoples in their natural settings. They used an approach of storytelling of community elders, which was important to understand the tacit impact of DHR and CNP. They informally interviewed the local government representatives, political leaders, women, and activists. They listened to their past and present stories of living based on surrounding natural resources. They continued developing insights by reflecting on the ideas and experiences of multi-dimensional impacts on their lives. They valued the indigenous metaphors, local sayings, and artifacts for knowing the phenomena.

In addition, the researchers conducted four group discussions in the

adjoining villages of DHR and three group discussions with each of three groups or three sites at CNP with the most affected community members. They respected the spontaneity, informality, and autonomy of participants. They listened deeply to the collective voices of suppression, domination, and injustice created by DHR and CNP for several years in the process of continuing their traditional livelihoods based on lands and natural resources. The community members shared their collective and consensual views and even contrasting views in the discussion. The researchers become co-learners of the phenomena of their human rights violations.

It was believed that a lot of information could be acquired through non-discursive ways, i.e. through informal observation. The research team members engaged in the non-intrusive or invited observation of the impact of DHR and CNP on the lives of affected Indigenous Peoples. They collectively engaged with the members of the communities in making sense of the impact on their lands and natural resources. They informally observed the living contexts of Magar, Tharu, Bote, and Chepang Indigenous Peoples, such as rangelands, cultural artifacts, housing patterns, cultural or spiritual plant species, rivers, and rivulets, and residential lands and their surrounding natural resources.

### **1.2.3 Working With Information and Reporting**

The field notes and recordings of informal interviews and group discussions were maintained after getting the informed consent of the community members. Furthermore, an account of observation of the field was prepared based on the field notes and the photographs taken in the fields. The recordings were transcribed, coded, categorized/sorted out, and the key themes were generated from the information (Patton, 1999; Creswell, 2009). The description under each theme with bits of narratives as juicy statements of key research participants was presented as evidence. The meanings were generated from the narratives and further analyzed human rights violations from the indigenous perspectives.

## Section II: A Case of Magar at DHR

This section articulates the impact of the Dhorpatan Hunting Reserve (DHR) on the Magar Indigenous Peoples. Primarily, it deals with how the Magar were evicted from their lands. The second sub-section discusses the impact on the socio-political system of Magar that is intrinsically linked with the management of land territories and resources based on customary laws, particularly the traditional rangelands and transhumant pastoralism. The third sub-section is about the impact on indigenous knowledge, cultural artifacts, spiritual or religious practices of affected non/Indigenous Peoples, and the fourth sub-section is dedicated to the detachment or near detachment from traditional livelihoods. Similarly, the fifth sub-section analyzes how militarization has criminalized the customary practices and lifeways of the Magar. The sixth sub-section unpacks the intimidated living and heteronomy of local Indigenous Peoples, and finally, the seventh sub-section provides a brief analysis of unfair benefit sharing.

### 2.1 Dis/Possession of Land Territories and Resources

Since the whole area of DHR is located in the ancestral lands of Magar Indigenous Peoples, *Magarat*, of Nepal, with enormous natural resources such as flora and fauna, wildlife, rivers, rivulets, and mines, it is difficult to trace the ancestral migratory route of the Magar. But they believe, particularly in the east Rukum, that they came from the base of *Kutha* mountain (where there is still the settlement of Budha Magar). They were nomadic and moved to *Rustam* river to *Taka* (that was named from the word ‘*Takanye*’, which means the land found for the first time), *Sera*, and other surrounding places. One of the members in the talking circle at Bachhi Gaon shared, “*Hamro Pita Purkha le Charchi Bhogi Ayeko Jamin- Daphya Charnya Dekhi Machha Charnya Samma* [Translation- Our ancestral land spreads from the habitat of Lophophorus to fish]”. “The habitats of Lophophorus are the lands of Gharti-Magar, and the habitats of fish are the lands of Budha Magar”, added another member. The Magar have this popular saying passed down from generation to

generation, claiming that they had their ancestral land territories from high mountains to low valleys in mid-Western hills.

In addition, the toponyms of traditional settlements at lower lands of Magar in and out of DHR such as *Serabang, Bobang, Taka, Sera, Nihsyaldhor, Burtibang*, etc. and high altitude rangelands<sup>5</sup> within DHR such as *Bhaadya, Baadbir, Gheppa Kharka, Patya, Luzayamsar, Rangasainyam, Ngaipya, Sirganda, Rabinai, Rabil, Sanipa, Jangai, Dhorpatan/Dhor* and so on represent the Magar language (*Kham*). The toponyms (see Table 1 in Annex B) epitomize the first settlements of Magar ancestors in the places (Thapa-Magar, 1997). Thus, linguistic palaeontology demonstrates that the Magar occupied the land territories of the DHR for centuries. The lands were first found, owned, managed, and controlled by the Magar with sole collective authority. However, the collective lands of Magar Indigenous Peoples, used by other locals in some areas, were taken away without their consent, compensation, and an alternative to their livelihood practices.

As understood in the field, the Magar had traditional practices of transhumant pastoralism. The Magar pastoralists engaged in migrating livestock in different agro-ecological zones, fixed customarily for grazing. The rangelands were transferred to their clan groups, and the parcels of the lands were owned and controlled by the respective clan groups. Dhan Bahadur Adai at Bobang said that the clan groups themselves managed their transhumant pastoralism as their collective lands. The clan groups used the lands collectively without encroaching on each other's areas based on their customary laws. They moved to high lands between mid-May to August, during the domination of alpine grasses, and down to the valleys between late August to September. The seasonal movement was important to protect their cattle from climatic differences. About 5000 households were engaged in transhumant pastoralism, each having 20 livestock on average (Heinen & Kattel, 1992). It was the key means of livelihood for each of the Magar households. The following table shows

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5 We used Rangelands to represent pasturelands, grasslands, shrub lands and grazing areas of inside and outside forests as defined by The Rangeland Policy 2012.

the traditional use of land territories from where DHR evicted them.

**Table 1:** *Indigenous Land Territories Used by DHR*

Land Use	Area (sq. Km.)	Percentage Covered
Grazing lands	444.56	33.55
Forest lands	426.60	32.20
Barren lands	426.35	32.18
Agricultural lands	26.38	01.99
Shrub lands	01.11	00.08
<b>Total</b>	<b>1325</b>	<b>100</b>

*(Source: DHRO, 2021)*

Table 1 clarifies that the DHR has covered mostly the traditional rangelands of the Magar. The grazing lands that occupy the largest area, followed by forest area and agricultural lands, indicate that they had livelihoods not only based on transhumant pastoralism and also on traditional agriculture. However, one of the participants in the discussion of Bachhi Gaon said that many of the households have already left the occupation (transhumant pastoralism) due to the threat created by security forces and rangers. Another indigenous activist noted, “The practices of livestock keeping and the number of sheep and cows are decreasing in the flocks, and small numbers of households have a few herds of livestock”. He further noted, “The Magar, nowadays, are uncertain about the future of keeping livestock because of the accelerating restriction of DHR on accessing rangelands or any other resources. Many of them are selling the livestock and keeping less”.

Nevertheless, they still have limited access to these rangelands with less freedom and more fear of getting accused of something they don't



know. Thus, the traditional practices of transhumant pastoralism have been rapidly lessening in the later years due to DHR activities.



Figure 1: Sheep herding in a rangeland (Source: Field Observation)

This has a multi-dimensional impact on the lives of the Magar. With the declining practices of transhumant pastoralism, on the one hand, the Magar have been losing their economic relationships with the land territories and resources. On the other hand, the language of the Magar, which has an intrinsic connection with the land territories and resources, is also under serious threat of loss. Moreover, they have been isolated from their customary land tenure systems, according to which they had a tradition of using particular parcels of lands collectively allotted over clan groups. They have been loosening their ties to the customary ways of life, customary laws of using rangelands, and management of transhumant pastoralism. They have been nearly detached from their traditional economic, linguistic, and socio-cultural relationship with the lands, and it has also created a threat to the traditional institution.

## 2.2 Impact on Socio-Political System

The Magar have a specific socio-political system through which they have been exercising their customary laws of managing lands. *Kachahari* is one of the traditional institutions of *Pun* and *Gharti* Magar communities, particularly in the *Bachhi Gaon*, *Taka*, and *Sera* villages of Rukum. It is the traditional governance system through which they exercise their autonomy. One of the community leaders said, “We have here *Kachahari* in 18 *Magarat* (ancestral Magar lands) and others in 12 *Magarat*, it is called *Bheja*.” The *Kachahari* is a religious, cultural, and economic institution of the Magar. It is held once a year on June 15 (*Ashar* 1 BS) at a sacred place, ‘*Sabaapo*’ at Bachhi Gaon (though, traditionally, it was celebrated for a month with dance and songs). The leadership lies in the hands of the eldest member of the group and is known as a *Mukhiya*. The *Mukhiya* is selected each year based on the consensual decision of the *Kachahari*. He dis/continues his tenure based on his performance of works under the judgment of the *Kachahari*. It consists of representatives (particularly the males) of each of the families of the village. Males participate in the discussion of social, economic, and religious issues and women are responsible for supporting the logistics management.

The *Kachahari* is still in practice in the villages of the East Rukum. The male members of the households sit in a rectangular shape in the order of seniority by age. The man who is positioned at the corner is supposed that he needs spiritual healing. The man who has already deceased in the sequence is given ‘*Nakai*’ (a little fermented millet or maize or wheat after extracting juice/homemade spiritual liquor) on a small piece of stone. They make a shrine on a flat stone, placing bread of wheat flour with markings of animals and plants. They sacrifice a sheep called ‘*Bal*’ (a sheep separated from a flock), and hence it is called ‘*Bal Pooja*’ as well. The ritual is also called ‘*Bhumya Pooja*’ for getting blessed by ancestral spirits to have good crops. They worship the lands to have better livestock and protect crops from wild animals, avoid floods and landslides, garner peace and harmony in the community, and prosperity of kins. They eat together, sharing ideas and experiences, which helps

maintain cohesion and harmony among the community members.

Among several roles, managing transhumance (management of pastoralism or nomadism of domestic animals from high pastures to low valleys) is one of the prime concerns of the *Kachahari*. It is a democratic institution in which they decide on the issues collectively. They decide when, where, and how to make travelling of herds and restrict the use of rangelands for grazing. It appoints a '*Katuwal*' who informs all the community members when and which areas have been allowed and banned for grazing. He works to disseminate other information which matters to the community members, such as calling *Kachahari*. Instead, he is provided with a certain amount (2 *Pathis*<sup>6</sup> at this time, but it is changeable based on the decision of the *Kachahari*) of food grains from each household. In addition, the *Kachahari* appoints the '*Gwala Mukhiya*' (leader of livestock herders), making responsible for monitoring other '*Gwalas*' (herders) who violate the rules and procedures of grazing animals. The *Kachahari* levies a certain amount of fine (Rs. 500 hundred at this time) to those who use restricted rangelands and violate other rules and procedures for managing transhumant pastoralism. It is also responsible for seeking herders who are lost in the rangelands called '*Khimnye*' or '*Saapnye*'. The '*Katuwal*' and '*Gwala Mukhiya*' have fixed tenure. The *Kachahari* dis/continues the tenure based on the performance and nominates others if the earlier nominee could not fulfil the duties.

Thus, the *Kachahari* as a political system of the Magar is intrinsically aligned with managing transhumant pastoralism. It develops particular community norms, values, and procedures to protect and regulate the access to rangelands (pasturelands, forests, grasslands, and shrublands) for shaping the practices of using and managing the land territories and resources (Acharya & Baral, 2017). The '*Gwalas*' as transhumance pastoralists are responsible for the sustainability of forests and pastures. Thus, the traditional management of land territories and resources of the Magar are based on their customary laws handed down from generation to generation. The practices that promote sustainable resource flow are

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6 Indigenous measurement system (1 *Pathi* = approximately 3 Kgs)

on the verge of extinction as DHR has nearly restricted the use of several big rangelands (as discussed above).

The Magar have been untying with their indigenous socio-political system, closely associated with transhumant management, socio-cultural and religious practices. With this, they have been detaching themselves from the customary laws of using rangelands, lifeways, and traditional governance, the *Kachahari* system. The continual restriction of the use of rangelands has a threat to weakening the traditional institution of the Magar through which they have been exercising their autonomy and right to self-determination. This has threatened the *Kachahari* system and associated values, customary laws, beliefs, knowledge, spirituality, language, and culture.

### 2.3 Threat to Indigenous (Technology) Knowledge, Cultural Artifacts, and Spirituality

The Magar and other non/Indigenous Peoples have an enormous body of indigenous technology knowledge passed down from generation to generation. Based on their traditional knowledge, the cultural artifacts (a few examples are shown in the pictures) represent their culture, ways of living, and lifestyles. The knowledge heritage is embedded in plant species, cattle, rivers/rivulets, mines etc. This context-based body of



Figure 2: Dhainki (Wooden Thresher)



Figure 3: Wine making

knowledge developed for centuries has enabled them to adapt to their climatic situations and sustain their traditional livelihoods.



Figure 4: *Hadula* (Woolen coat)



Figure 6: Shed or Hut made of stone



Figure 5: *Du* (Basket made of Nigalo split canes)



Figure 7: *Ghatta* (Water Mill for grinding food grains)

Nevertheless, the hunting reserve has created a restriction on the use of natural resources, thereby threatening the indigenous knowledge systems. It has forced them to lose their traditional livelihoods, culture, and identity gradually. Disassociation with the indigenous technological knowledge, the artifacts, and the associated cultural patterns has created a higher possibility of vanishing the language of the Magar and other non/indigenous communities.

The animal and plant species are also closely associated with other cultures of the Magar. For example, the Magar have a particular culture of respecting and honouring guests. They welcome the guest/s sacrificing a goat, sheep, pig, or other domestic animal. “They offer a gift, ‘*Kaadho*’,



Figure 8: *Syar ngai/Kaadho*/Gift for guest/s (Source: Field observation)



Figure 9: *Lho* (Mat made of *Nigalo/Chal* split canes)      Figure 10: *Zila* (Thin layer of bark of pine tree)

Source: Field Observation

of flanks and chunks of meat, head, lungs, breast, etc. to the guests when they leave the host’s home after visiting them or taking part in feasting and merry-making” (Budha Magar & Adhikari, 2011, p. 39). The plant and animal species are equally crucial in birth and death rituals and marriage ceremonies. Thus, for Magar and other non/Indigenous Peoples in affected areas of DHR, the natural resources, including domestic animals, plant species, and cultural artifacts based on indigenous technology knowledge, have specific cultural and spiritual values. These cultures are in endangered states due to the inaccessibility of natural resources

and declining herding of livestock.

Likewise, the Magar have spiritual and religious relationships with nature. They have been using more than 22 kinds of different plant species for their rituals and ceremonies (Sapkota, 2010). For example, they use *Jhakro* (a plant that has spiritual value) in death rituals and *Kulpujne* (worshipping of the spirit ancestors) rituals. They believe that *Jhakro* is a pure and essential plant species necessary for making the ancestors' spirits happy. In the death ritual, the dead body is wrapped by Nigalo/Chal mat (Lho), and the mouth is burnt with *Diyalo or Las/Losoi* (the leaves of a pine tree). Moreover, they use 'Suwa' (a tall pine pole with foliage that is erected at the crossroads around which a shaman dances on special occasions) in shamanic practices (Budha Magar & Adhikari, 2011, p. 382). In addition, they fire *Zila (Bhujipaat)* in *Bhumya Pooja* (worshipping of Mother earth) and other Shamanic practices to chase away ghosts. The restriction on accessing the plant species has created a serious threat to the extinction of these traditional spiritual and religious practices.

## 2.4 Detached and Near to Detaching from Traditional Livelihoods

*'Forest is the store; the house is a cave.'*

The Magar have this popular saying passed down from generation to generation. They were fully dependent on natural resources for fulfilling their livelihood requirements. Dhorpatan Hunting Reserve (DHR) has banned adopting their traditional occupations such as fishing, hunting animals, and collecting wild vegetables - nettle, mushroom, *Niguro* (Fiddlehead Ferns), yams, herbal plants, and other wild nuts, etc. The whole of this area of DHR includes rangelands in high lands and lower valleys, residential lots, dry fields, farms, streams, and rivers (as discussed in the earlier section). The Magar have been engaging in traditional transhumant pastoralism (as discussed in the earlier section) as a key means of livelihood. The Office of DHR (2016/2073) estimated that there were 14550 cows/buffalos/mules in 1440 herds and 56350 sheep/

goats in 1145 herds in the high altitude rangelands (Field Observation of the Official Notice). Traditionally, both males and females had access to such lands for grazing livestock and cattle, collecting firewood, herbs or medicinal plants for domestic use, fodder, wild nuts, nettle, mushrooms, and so on. They depended on timber, logs, and *Nigalo* (*Himalayacalamus asper*) for domestic use.

As discussed in the earlier section, many Magar households have already left the traditions of transhumant pastoralism due to the threat created by the hunting reserve. However, a few households are still grazing



Figure 11: *Chhi* (Grass) (Source: Field observation)

the domestic animals (cows, sheep, goats, and buffaloes) in limited rangelands. They have to pay royalty even for limited resources (timber, logs, fodder, firewood, etc.). Therefore, it has become difficult for them to collect grass and fodder for livestock. As reported by Hira Bahadur Pun Magar at Nishi Khola village, there were several types

of grasses (*Chhi*) they collected from the forest for feeding animals, such as *Hirmi Chhi*, *Barjem Chhi*, *Pasam Chhi*, *Buki Chhi*, *Sunauli Chhi*, *Boka Chhi*, *Smer*, *Haargi*, *Kauchhi*, *Rjhes*, etc. He further said, ‘We cannot collect these grasses nowadays’. Many of these grasses are found in the restricted areas of DHR. They have a fear of collecting the grasses as the rangers and armies have threatened the community peoples many times.

The DHR has almost detached Magar from their traditional means of living. Moreover, they have been isolated from their traditional agricultural practices. One of the participants (Dev Sunar) in the



discussion of Bobang shared the pain of the community;

*Traditionally, we cultivated buckwheat at high-land pastures. We also had herds of sheep, cows and buffalos. Some grew 10/20 Muri and some 50/60 Muri.<sup>7</sup> We spent six months at Dhorpatan (highland valley) and six months here (at Bobang-low land). Nowadays, the hunting reserve has restricted all these. The buck-wheat farming has disappeared. Nobody has this today.*



Figure 12: Livelihoods of Magar community (Source: Field observation)

Another participant/activist (Dhan Bahadur Adai) at Bobang noted;

*We had traditional agricultural practices in which we grew potatoes, wheat, barley, millet, and buckwheat. We produced 12 Muri from 1 Pathi<sup>8</sup> of seed. There was a tradition of Hale (plough able land), Kodale (land on which the spade can be used for loosening soil), Fatke (the land for rotational cropping after*

7 Local measurement of food grains (1 Muri is approximately equal to 80 Kgs)

8 Local measurement of food grains (1 Pathi is approximately 4 Kgs and 20 Pathi is equal to 1 Muri)

*each year), and Trishale (land for rotational cultivation after three years). All Trishales were prosecuted. These practices are no more here nowadays.*

Due to the possession of indigenous land territories and resources in the Dhorpatan Hunting Reserve Office (DHRO), the Magar and other non/indigenous communities have already been detached from their traditional agricultural practices as their means of livelihood. They have been compelled to limit their agricultural activities in their officially registered lands. Nevertheless, they could not use the natural resources even in their registered lands without official permission. It is not just the dispossession of lands of the Magar but also their alienation from exercising their customary laws and practices of land management. The customary land use and ways of engagement in the production of crops are not only associated with their livelihoods but also their traditional culture.

Despite all these, in many cases, the crops and cereals are often damaged by wild animals. During the rainy season, they graze cattle and grow potatoes, maize, and buckwheat at the side of the Uttarganga river in the Nihsyaldhor area. One of the participants (Yogesh Budha-Magar) in an informal discussion at Taka village shared, “Wild animals destroy our crops time and again”. One of the community members in Damchai village noted, “We cannot kill wild animals. Porcupines, wild pigs, bears, Deer, Tahr, and Fox yearly destroy our crops. We have not got any compensation from anywhere. Three years ago, one woman was attacked by a Bear, and she died.” Padam Bahadur Gharti-Magar said, “Wild pigs come to our home premises and damage the crops. Last year, one woman was injured by Wild pigs.” The serious issue is that the Magar and other non/Indigenous Peoples are not only under the threat of military forces, but they are also unsecured from the wild animals.

## **2.5 Militarization and Criminalization**

A company of Nepal army has been deployed since May 12, 2016, to

protect the DHR. The major purpose of deploying the Nepal army (218 in number at this time) was to control the land encroachment and deforestation by local Indigenous Peoples for expansion of settlements and farming, illegal hunting of wild animals, and collection of herbal plants (Newspaper article, August 7, 2016). The office of the reserve claimed that the maximum encroachment of land was at Taksera, Dhorpatan, and Gurjaghat. A notice (Annex B) for the public was displayed on March 7, 2017, in public places to remove the houses/huts



Figure 13: Military intervention (Source: Field Observation)

and crops from the encroached lands with the threat of mobilizing security forces/Nepal armies. It was blamed that the Indigenous Peoples were engaged in poaching and illegal collection and trading of herbal or medicinal plant species (Ananath Baral, Warden of DHR Office, Newspaper article, August 7, 2016).

It is evident that the DHR has not just systematically controlled the land territories and natural resources of the Magar and other non/Indigenous Peoples; rather, their customary lifeways have been turned into a criminal act. They have been kept away from their autonomy and freedom to use resources from their ancestral lands. In the discussion at Taka village, Prakash Pun-Magar, a youth, shared two events that had happened in 2020.

*I had cut down trees for about 105 cubic feet of timber for making my house. I paid double the amount as royalty, Rs. 14500 to the Community Forest Users' Group (CFUG), and again the DHR fined me Rs. 15000. And again, in 2020, my friends and I*

*were fishing in the Uttarganga river (a river that flows across the Hunting reserve nearby Taka village), and we encountered armies and rangers. They seized our three fishing nets and a Doko (basket made of split canes of bamboo) of fish we caught. However, they do not do it anymore.*

Yogesh Budha Magar shared similar pain of himself and other community members. The armies have restricted them from using forest resources. He was fined Rs. 25000 when he extracted 20 tractors of sand from the Uttarganga river for making a road in the village. He said that the community people were not allowed to collect even the flooded logs



Figure 14: *Uttarganga River* (Source-Field Observation)

found at the river banks. He further shared that they needed to pay the royalty for cutting trees planted by themselves in their registered lands. Many others have been facing allegations and detention in the name of collecting herbal plants, and they were released after paying a certain amount of fine. For example, Dev Sunar, at Bobang, in

2020, was arrested, tortured, fined, and forcefully made to sign when he extracted sand for constructing a school in the village. Moreover, Bishnu Pun-Magar, aged 55, of Baachhi Gaon, shared an event of allegation and detention faced in 2018;

*The traders from Nepalgunj had a connection with a retired army who worked in DHR. He called me at Dhorpatan and proposed I collect 'Khiraula' (a kind of medicinal plant) in the reserve. He*

*said that DHR Office called a tender for collecting 'Khiraula' or 'Setochini'.<sup>9</sup> He convinced me that he would take responsibility if armies and rangers arrested him. Then, I collected it for two days at Baje (a place where Khiraula was found) with the support of 25 other friends/labourers. The armies found us and arrested us using vulgar words. The Warden came and inquired us in turn. Other friends were released day by day, but I was kept for fourteen days in the camp. I was released by paying about Rs. 5000 of the cost of the meal that I had during custody.*

It is evident that, in many cases, the Magar have been banned in their traditional economic activities based on the natural resources, and hence they had a compulsion to engage in trading activities of medicinal plants in collaboration with external traders. They have been compelled to work with them under the risk of detention and allegation. On the other hand, the traders have used them as labourers with a meagre amount of wages as they had indigenous knowledge of where the valuable plant species are found and how to collect such plants.

## **2.6 Intimidated Living and Heteronomy**

Militarization has created a fearful living as they have been denied to adopt their customary lifeways. Scary living has curtailed freedom of day-to-day engagement in the surrounding environment for living. They have been intimidated time and again whilst using natural resources for their traditional livelihoods. They don't feel secure. They were, all the time, frightened of being accused of something unknown to them. Many of them do not know what can be done and what not. Rem Maya Gharti Magar at Bobang lamented;

*We fear when we go to collect firewood and fodder in the forest. People say that armies shoot and kill us. The girls in our village do not want to go to the forest as they fear it. At one time, armies took photos of the girls when they went to collect fodder and*

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9 Ginger like groundnut found in forest

*grass in the forest. On the other hand, we have a fear of wild pigs. People nowadays do not go alone to collect wild vegetables such as mushrooms and nettle. They don't allow us to touch herbal plants. We are frightened to speak and communicate with armies and even other people of the reserve.*

Another woman participant (Rel Maya Magar) at Bobang shared,

*We are not allowed to collect even the dry leaves in the forest that we use for making manure for apple plantations in our statutory lands. We need to pay money for every use of natural resources.*

Man Bahadur Kaami noted,

*We cannot collect even the logs buried under snow and the logs flooded by the river even with the submission of the written application. At one time, when I applied for the use of a dry log that I found at the shore of this river. The reserve office refused. The log decayed there, but we did not touch it.*

An activist, Dhan Bahadur Adai, expressed,

*Most people in Bobang are seasonal migrants. They migrate to Dhorpatan valley (high land) in the summer season, and they come back to Bobang in the winter season. They need to cross the Deurali check post where security forces/armies inquire and check bodies and belongings time and again. Sometimes, when they suspect, they force to strip off clothes and put off shoes. People cannot speak, and they don't react to anything.*

The barracks and camps of the security forces/Nepal armies have been positioned in different places in and out of the reserve that adjoins the demarcated area of the reserve and the community settlements. There are several offices of DHR such as in *Maikot, Pelma, Taksera, Nisheldhor, Deurali, Gurjakhani and Gurjaghat, Dule, Mas, and Jaljala*. Ranger

Office (RO) is at Taksera, Range Posts (RP) are at *Maikot*, *Deurali*, and *Gurjakhani*, and Guard Posts (GP) are in the places. Another participant in an informal discussion at Bobang noted that they often get terrified and frightened due to checkups of every one of their belongings and body time and again at the *Deurali* check post. He further said that the security forces have created fear in livestock herders and restricted them from using forest resources such as firewood, logs, timber, fodder, etc., in rangelands such as in Dhorpatan. As informed by the participants in informal discussion, in many cases, they were accused of collecting wild vegetables, herbal plants, firewood, logs, fodder, sand, fish, stones for roofing their houses, and so on. Further, unnecessary questioning, rudeness, threats, and violence against them, including women and girls, are frequent activities of security forces and reserve officers. It has been intimidation and heteronomy that the Magar have been facing for several years in the affected areas of the DHR.

## **2.7 Marginalization of Representative Voices**

The DHR was declared during the period of the authoritarian Panchayat regime under the facilitation of the King's cadre without notification and consultation at the community level. The purpose was to promote sport hunting, particularly the Blue sheep and Himalayan Tahr, and conservation of natural resources in isolation of human kinds (Fortress model copied from the West). There was no way of informing, consulting, and participating local Indigenous Peoples in dispossessing them from their ancestral land territories. As experienced by a participant (elderly sheep herder from the Magar community) of a talking circle at Dhorpatan valley, they were called each year for consultation (1990 onwards only) at Warden's office to inform them of the activities of the reserve. They were just informed about the benefits that the reserve would give them as locals, particularly the infrastructure development such as roads, drinking water, and other facilities. However, he experiences no benefits for the communities, the restriction on their traditional living and lifestyles.

For the first time, the government of Nepal decided to deploy a group

of the army at DHR in 2010, and again the specific decision to deploy *Hanumandhwaj Gulma* (a company of army) was made by the Council of Ministers on 10 October 2015. Affected Indigenous Peoples were neither informed nor consulted in deciding on military mobilization. As informed by Purna Bahadur Gharti Magar, an indigenous leader, the state consulted limited local political cadres of major parties but never informed, consulted, and participated indigenous leaders in the process of deploying the armies. In actuality, there was no representative participation of the Magar on such a legally serious issue. Instead, the armies were positioned forcefully despite several rounds of protests against violations of FPIC (counter actions taken by local non/Indigenous Peoples are discussed in the next section).

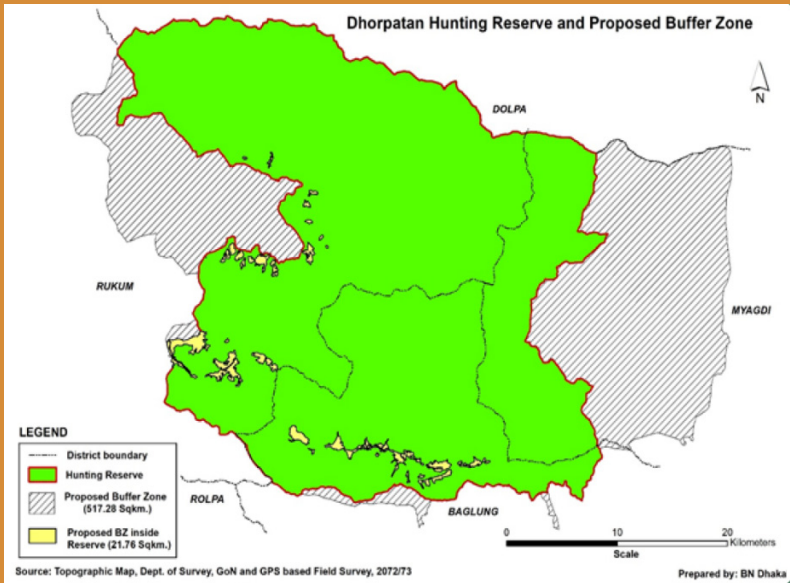


Figure 15: Proposed buffer zone (Source: Dhorpatan Hunting Reserve Office [DHRO], 2019)

In addition, the fourth amendment of the National Parks and Wildlife Conservation Act, 1973 introduced the concept of buffer zone management in 1993. The buffer zone has a concept of managing the



hunting reserve more sustainably by reducing deforestation, human-animal conflict, participation of communities in conservation, and enhancing their livelihoods through benefit sharing. Further, Buffer Zone Regulations 1996 and Buffer Zone Guidelines 1999 provide policy and legal framework for buffer zone management. For materializing the legislative provisions, the Office of the DHR has developed a DHR Management Plan 2019 that has proposed a buffer zone for the areas inside and outside adjoining villages of Magar and other non/Indigenous Peoples. The area covers 539.04 sq. km. of Baglung, Myagdi and Rukum districts (DHRO, 2019). The proposed buffer zone of DHR consists of a population of over 24,472 with 5,193 households (of which 2,945 households reside in the 53 settlements within the reserve) that covers parts of one municipality (Dhorpatan) and 3 Rural Municipalities (Putha Uttarganga, Dhaulagiri, Taman Khola) across Baglung<sup>10</sup>, Myagdi<sup>11</sup>, and East Rukum<sup>12</sup> (See Map 2) (DHRO, 2019). The buffer zone expands in a few other villages of Rolpa<sup>13</sup> and Pyuthan.<sup>14</sup>

It is said that the areas were identified after several discussions and interactions with local political cadres/leaders of the surrounding area. However, the indigenous leaders and representatives of indigenous institutions were never informed, consulted, and participated in all these processes of developing policies, programmes, plans, and even in the discussions and interactions whilst identifying the buffer zone areas. Limited local elites, political cadres, and representatives of the local level/governments were informed and participated in the processes. One participant (Dhan Bahadur Adai) at Bobang as an indigenous activist said,

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10 9 Village Development Committees (VDCs) of prior governing structures such as Nishi, Bobang, Adhikarichaur, Bonga Dovan, Devasthan, Khunga, Bohoragaon, Taman, and Rajkut.

11 6 Village Development Committees (VDCs) of prior structures such as Manaa, Lulaa, Gurja, Modi, Morang, and Taakam.

12 13 Village Development Committees (VDCs) of prior structure such as Ranma Maikot, Taksera, Hukam, Kaakri, Jaang, Kol, Raangsi, Kaadaa, Mahat, Sisne, Pwang, Aathbishkot and Chunbang.

13 6 VDCs of Rolpa (Gaam, Seram, Uwa, Thabang, Siuripang, and Harjang)

14 5 VDCs of Pyuthan (Arkha, Khara, Rajbaara, Syaulibang, and Khabang)

*We don't know when and where the buffer zone areas were identified, who were informed and participated in the discussion, or maybe local leaders and municipality people agreed-upon declaration of the buffer zone. We were never in favour of declaring a buffer zone as the reserve has given us nothing more than torture.*

It was due to the protest of local indigenous activists, the Office of the DHR was not able to declare a buffer zone. The cadres of political parties were likely to accept the buffer zone, but the indigenous activists were raising their voices against it. However, the local political cadres and a few local elites representing non-indigenous communities have often participated in the consultation meeting. The indigenous leaders or traditional community leaders have not been recognized and partaken in the meetings. It was too far to engage them in the process of FPIC.

## **2.8 Unfair Benefit Sharintg**

The DHR generates millions of rupees as revenues and taxes every year from local non/Indigenous Peoples and also from international sport hunters. Total revenues in 2014/15, 2015/16, and 2016/17 were Rs. 7980786, Rs. 17248551, and Rs. 12910802 respectively (Field observation, Office Notice of DHR). The major sources of revenue were hunting tourism, royalties from forest resources, entry fees of tourists, fine, administrative service charges, and royalties from sand (Field observation, Office Notice of DHR). The reserve revenue is largely spent on the management of the reserve rather than for the direct benefits of the locals. The annual report of the Department of National Parks and Wildlife Conservation (DNPWC) shows that out of the total volume of budget (Rs. 56543 thousand in 2019/20), the largest share is spent on the management of the reserve (DHRO, 2019). But, the local Indigenous Peoples donot get their due share of the amount collected. Dhan Bahadur Adai, expressed;

*In the name of local development, it has spent a lot of money on building its office infrastructure and camps of Nepal armies, such as buildings, check posts, fencing, etc. We just listened that the officers of the reserve came and discussed with the people; the participants were given tea and cookies and allowed to listen to the benefits of the buffer zone. We have got nothing more than torture from the reserve. I have heard that a big amount is still unaccounted for from the period of Warden, Annanath Baral.*

The experiences shared by Adai confirmed the priorities of development given by DHRO. The annual report (2019/20) of the DNPWC shows that the preference has been given to the protection and conservation of biodiversity, which included expansion, repair, and maintenance of infrastructure for the effective operation of the reserve along with support for anti-poaching and wildlife health management. The report also highlights that a large volume of the budget was spent on new infrastructure such as office building construction, check posts and warden offices, forest foot trails, bridges, grassland management, and fencing (DNPWC, 2020). Thus, there is no kind of benefit sharing of DHR with the local Indigenous Peoples.

## **2.9 Key Findings**

1. With the declining practices of transhumant pastoralism, the Magar, on the one hand, have been losing their economic relationships with the land territories and resources. On the other hand, the language of the Magar, which has an intrinsic connection with the land territories and resources, is also under serious threat of loss. Furthermore, they have been isolated from their customary land tenure systems on which they had a tradition of using particular parcels of lands collectively allotted over clan groups. They have been loosening their ties to the customary ways of life, customary laws of using rangelands and managing transhumant pastoralism.
2. The restriction on the use of rangelands has a threat to weakening

the traditional institution of the Magar through which they had been exercising their autonomy and self-determination. The socio-political system of Magar, *Kachahari*, which has a close association with transhumant management, spirituality, and socio-cultural practices, was under threat of extinction. With this, they have been detaching the customary laws of using rangelands, lifeways, and traditional governance.

3. Disassociation of the Magar with the lands and natural resources is detrimental to the traditional livelihoods and enormous body of indigenous (technology) knowledge, cultural, and spiritual practices.
4. The militarization in the DHR has caused abuses, harassment, threat, illegal arrest, and detention of the Magar. Many detainees have been illegally kept and tortured in the camps for several days without any legal processes. The DHR has criminalized the customary living of local Indigenous Peoples. Thus, they have been facing intimidation and heteronomy for several years whilst adopting their customary practices of living based on natural resources.
5. Despite the continuing peaceful objection, Magar communities were neither recognized as an indigenous group nor informed, consulted, and participated in the processes of declaring mobilization of armies and buffer zone at DHR. Political cadres of major political parties and representatives of local governments were consulted and participated in the processes that favoured continuing the interest of DHR in those issues.
6. The management of DHR could not be associated with the local development as its benefits were not shared with the local Indigenous Peoples and their development.

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## Section III: A Case of Bote at CNP

Kawasoti Municipality of Nawalparasi district lies towards the North-South of the CNP, with six of its wards (Ward 15, 10, 7, 13, 12, and 11) adjoining the park. There is a small settlement of 72 households of Bote in Baghkor (in Agyauli Village Development Committee-5 as an earlier administrative division), Kawasoti Municipality -15. There is another small cluster of Bote in Madhyabindu Municipality – 2, Kolwa, displaced by the CNP. Thus, this section presents the impact created by the park on the lives of Bote in those areas.

### 3.1 Loss of Collecting Gold Motes

Bote had a tradition of collecting gold motes at Narayani river banks. They had a specific land tenure system through which the slices of land were divided among the household members of the community. On the day of *Gandaki Pooja/Badko Barne*, a great ritual of worshipping the river, the particular areas of the river banks (where the gold was found) were divided for each household. They had knowledge in which areas the gold was found based on the type and quality of the sand. The most probable area they decided on was a consensual manner where the largest amount of gold would be found. They collectively decided that the richest piece of land would be allocated to *Mukhiya* (village chieftain/community leader), and the second richest area was offered to *Guruwa*<sup>15</sup> (spiritual leader). This was done in respect and honour of the eldest and most knowledgeable persons in the community. The rest of the areas were divided equally for each household.

*Mukhiya* and *Guruwa* played key roles in the allocation of lands. They had a democratic and unbiased way of division of lands. Each representative member of a family would take a piece of *Khadai* (stem of a kind of grass used to fence a house) marked something secretly on it and put it in a basket made of bamboo split canes or any other basket. *Mukhiya* held the basket on his head so that he could not see the pieces of *Khadai*. He

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15 Spiritual leader. There are no *Guruwa* nowadays. One is there in Chhipani.

held the basket with a hand, and a piece of *Khadai* was dropped to each slice of the land divided between the families. Each member identified his/her lands/river banks for a year based on the marked *Khadai*. The lottery system was to maintain the impartiality of the division of lands.

Bote engaged in decantation of gold motes from the sand locally called ‘Gold Washing’. They used indigenous techniques for gold washing. At first, a certain amount of sand was put in a little conical wooden vessel called *Dundh* (as shown in the picture). The sand was washed, pouring and outpouring water time and again, and the motes of gold were gradually suspended down at the bottom of the conical vessel. Again, a small portion of the mixture that was found at the bottom was shifted to another small wooden plank called *Paataa* (as shown in the picture). Slowly, the visible motes were separated with the help of water. Then, a few drops of the juice of the bark of the *Jingar* tree was poured on the scattered particles of gold. The juice is held together with the particles in a place.



Figure 16: *Dundh* and *Paataa* (Source: Field Observation)

Now, the gold was put on the leaf of *Jaluka* (a kind of wild vegetable and herbal medicine-*Centella Asiatica*) and wrapped. The wrapping was put on the coal and fired, blowing air through a bamboo pipe to melt and make a single piece.

An individual could collect 3 to 30 *Laal* (1 *Laal* = 0.1166 grams) of gold in a day, depending on the availability. They used gold to make

jewellery. They also exchanged gold with the food grains, and some were traded. Many of them made ornaments for the self. Most of the time, they spent on the river banks. However, they returned to the village when the water level rose in the river during the rainy season (*Ashadh*/May/June, *Shrawan*/June/July, and *Bhadra*/August/September). They



Figure 17: Decantation of gold motes using *Paataa*  
(Source: Field observation of demonstration of a participant)

celebrated the festivals, ceremonies, and rituals at the bank of the Narayani river as they lived for about nine months a year. This generation has no experience in washing gold. This major tradition of livelihoods of Bote was no more there as the CNP completely constrained them to engage in such activities at the river banks.

### 3.2 Restriction on Fishing and Ferrying

Along with collecting gold motes, they were usually fishing. Fishing and boating as an integral part of washing gold developed over time as their alternative means of living. However, there was no tradition of legitimated division of fishing areas as that of the division of river banks for washing gold. Generally, they engaged in fishing at night with a boat locally made with a Sal tree. Two persons in a boat travelled long distances and caught fish with a handmade fishing net. Many others used other techniques of catching fish, such as using hooks and sometimes they used the *Duwali*<sup>16</sup>

16 A method of fishing in which the river path/flow is changed towards another direction constructing a dam





Figure 18: Traditional fishing tradition of Bote  
(Source: Photo collected from the field)

method. There was complete freedom for them to catch fish. There was no restriction on using several techniques, such as using Sword, Hook, and Net.

Traditionally, Bote spent about eight months at the river banks engaging in their traditional livelihoods of catching fish. They came back

to the village and lived for about four months in the rainy seasons when the level of the Narayani river rose. Generally, the means of livelihood were subsistence. They engaged in bartering, the exchange of fish with food grains in the village as they had no cultivable lands. Later on, they cleared the jungle and developed their settlements. However, most of their traditionally owned lands were not registered in their names.

The CNP has completely restricted fishing at night. There are still about 85 Bote who have been engaging in fishing occupation under specific criteria set by the park. They hold a license for fishing. They need to renew their license yearly, paying a certain amount of money. The provision came almost a decade after establishing the CNP, an amendment to the National Park and Wildlife Conservation Act 1973 that allowed the provision of forest products or other services against payment of prescribed fees (Section 16a). Some traditional fisher folks were permitted to fish in the river after 26 years in 2000, upon annual payment of a fee of fifty rupees.

Even though, as informed by the Bote community members, providing licenses has been stopped for five years. The youths nowadays do not

get licenses. However, many of their licenses have been seized and not renewed for several years. Many of their fishing nets and boats have been seized and destroyed, accusing them of catching the fish untimely or blaming them for violating the criteria/rules of the park. Thus, the park is reluctant to renew and provide further licenses to Bote. The District Chair of Nepal Bote Samaj said, “It is better not to take the fishing license as it has restricted to catch

fish at night and we cannot catch the fish in the allowed daytime.” Another participant noted, “The fishing is not allowed now, and our license has not been renewed yet for a long time. They had renewed our license for the first time, but they later understood that we are protesting against the government, so they have stopped.” Thus, the licenses are meaningless for them as it has restricted the freedom of fishing as they did customarily.

This traditional lifeway of Bote is almost lost due to the possession of lands in the CNP. They have been detached from their customary livelihoods and limited to small landholdings. As alternative livelihoods, the park has managed the fish ponds for Bote in public lands (as shown in the picture). Only Rs. 25 thousand of the grant is provided yearly, and no other activities of livelihoods are allowed nearby there. They are not



Figure 19: Fishing license (Source: Collected in the field)

interested in promoting fish ponds. No fish has been produced for two years. They are not caring about it. This is because the elders of the Bote groups idealize their past as free and uninhibited by state-imposed restrictions. They used to reside in the forest in the vicinity of rivers and depended on both these resources for a living. When the monsoon set in, they moved to safer locations.

River ferry points were treated as common property. Ferrying villagers in exchange for food provided

them with additional livelihood. However, the park has controlled the ferrying with its new boats and the appointment of external helmspersons. Slowly, the CNP controlled natural resources and displaced them from their traditional occupations and sources of livelihood. By the mid-1980s, even ferrying passengers across the river was banned. Further, the Park issued private ferrying contracts to outsiders to generate revenue at the cost of the ferrying business of the local communities.

Thus, the CNP restricted fishing and made it illegal. In many cases, the park authorities confiscated boats and fishing nets of Bote. The park disregarded the dependence and relations of Bote with nature alienating them from their inherent rights and customary resource use practices and creating a serious livelihood crisis.



Figure 20: Fish pond made by CNP for Bote (Source: Field observation)

### 3.3 Threat to Loss of Bote Religion and Culture

Bote had a specific religious tradition of *Badko Barnu/Gandaki Pooja*. Bhiram Bote, 72 years, informed that they had a tradition of worshipping the *Gandaki* river that they did at the bank of the Narayani River. They did that as they had a belief their ancestors came from *Kali Gandaki* and moved down roaming the river banks. They needed 14 pairs of pigeons, five cocks, two hens, one pig, and a nanny to sacrifice. *Guruwa* as the spiritual leader (only one *Guruwa* is there nowadays at *Chhipani*, a neighbouring village of Baghkhori), performed the ritual of getting blessed to all Bote individuals and households. Each Bote family participated in the ritual with a sum of money and *Maana*<sup>17</sup> of rice determined by *Mukhiya*. *Mukhiya* was a headman to manage all the logistics and other required goods for the ritual. After the worship, the flesh and cooked items were equally divided for each participating household.

The *Badko Barne/Gandaki Pooja* is limited to the small rivulets near the settlement as they have been restricted to the Narayani river by CNP. Bote did not only admire and worship rivers through the *Badko Barne/Gandaki Pooja* rather; they had other several religious and cultural practices associated with their ancestral lands and natural resources. They define the spaces within the forest as sacred and worship the forest god, *Bhairu*. They believe that wild animals such as rhinoceros, tigers, deer, and wild boar as sacred. Other species, such as fish, crab, ants, and so on, have an intrinsic connection with the rituals of Bote.

Fish is important for them while purifying those who sit for the mourning of dead parents for seven days with a meal in a day. They are supposed to be purified when a dead fishtail touches the teeth. Fish is also equally important for them at the time of marriage. A bridegroom must take a gift of fish (packed in a small rectangular basket made up of bamboo split canes) for bringing his newlywed. The fish is cooked and given to the relatives of the bride. Hanging fish and crab in the marriage ceremony is very much essential culturally.

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17 Measurement of cereals. A Mana is approximately equal to one third of a kilogram.

In the marriage ceremony, five branches of the *Sal* tree and a branch of the *Amala* tree were fixed to make a wedding venue. A living crab, fish, and the yellow ant were hung to the branches of *Sal* and *Amala*. It was to create fun when the bridegroom with red wearing came and sat on the decorated venue; he was bit by the crab or ants. It was but at the time of concluding the wedding ritual, a boy and two girls provided them (attendees) with delicious food, including fish compulsorily. All the neighbours and villagers helped them by delivering 1 kg to 4-5 kgs of fish as per their capacity. But now, it has been challenging to make such a venue as it is getting difficult to collect all the materials and things at a time. Community forests and the national park restrict the collection of all these things.

### **3.4 The Exploitation of Bote Indigenous Knowledge**

Indigenous knowledge of Bote was exploited by the CNP. The Bote have knowledge of identifying river sand appropriate for crocodiles to lay eggs. As informed by Bote elders, they are used by the park authorities to collect eggs and hatchlings on the river banks. They know when, where, and how the Gharial crocodiles eggs and hatch. The last week of March (Chaitra 12/13) to the mid of April (Last of Chaitra) is the duration of laying eggs. Densely foggy weather that irritates the eyes is the information for them about the time of hatching the crocodiles' eggs. Silky sand mixed little with the mud is most appropriate for hatching eggs. Crocodiles lay eggs at least two feet down the sand as it absorbs the heat of the sun for a longer period.

Bote have specific knowledge of finding the eggs laid by the crocodiles. They see the sand scratched and the direction thrown around the hole. They dig out the sand at the place at least around six or seven feet of the distance the sand is thrown. That means they find the direction of the sand thrown and measure the approximate distance. They dig out the sand and collect the eggs. They are also allowed to collect hatchlings of crocodiles. Generally, the hatchlings come out of the sand after a month, from the last week of April to Mid of May. They know how the

mother crocodile behaves with the hatchlings. During this period, mother crocodiles come and listen to the sound of hatchlings time and again. After the sound of hatchlings is exposed from underground, she digs out the babies. Bote can identify the sound produced by the hatchling inside the sand. They catch the hatchlings either by digging out the sand when coming out of the sand.

*Sir, I want to add something to this. Park authorities call us formally. They send us a letter to collect the eggs of the crocodile. A team of Bote collects the eggs and sends them to Kasara. 8-9 couples engage in collecting the eggs of crocodiles. It is difficult for the park staff to find the egg-laying area. We do have a major team there.*

The CNP has used this indigenous knowledge of Bote in collecting eggs and hatchlings. Narayan Bote and a few others have been invited yearly for this work. They go every year with their wives as wives have to cook food as they live for one and half months on the river banks. They collect and take eggs and hatchlings to Kasara, an artificial hatching center. At Kasara also, they need to make artificial hatching spot under the sand. They got Rs. 15000 for each for a month last year, and this year they got Rs. 20000 for each with no cost to the wives. Instead, Bote people have been accused of being thieves, criminals, and actors responsible for the extinction of gharial crocodiles and fish in the Narayani river.

### **3.5 Involuntary Displacement of Bote**

It is in Madhyabindu Rural Municipality-2, Kolwa, there is a small cluster of settlements of the Bote community displaced from nearby the Narayani river. Previously, their ancestral lands were swept away by the flood of the Narayani River. The river changed its course, and the lands have now become an island (as shown in the picture). They have got only 10 *Dhur*<sup>18</sup> for each family as compensation. The park extended its boundary with the river. They paid tax on their registered lands. The households with

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18 1 Dhur = 182.25 Square feet

registration certificates got compensation, but others could not get it. There are altogether 46 households that do not have land registration certificates, *Lalpurja*. Initially, the district headquarter was in Parasi, and the transportation and travelling were not that accessible. And it was not possible for the Bote people to go



Figure 21: Narayani river (Source: Field observation)

easily. More so, it was difficult in the Panchayat era and much more expensive to access all these things. At this time, they have no cultivable lands and any other alternative means of livelihood. The young Bote in the community have almost stopped fishing because the park is always against the profession. They are reluctant to renew licenses as the park authorities trouble them to walk here and there for administrative procedures.

### **3.6 Criminalization of Traditional Livelihoods**

As discussed above, fishing for Bote was a customary occupation adopted by their ancestors for centuries. Until 2001, they used to stay the whole night on the bank of the Narayani river. But, later on, CNP limited access to fishing. Many of the fishers have been arrested and detained for several days. They have been tortured and blamed as criminals. For example, when a few boys aged 14-15 years who went to the ancestral lands inside the Narayani river, the armies arrested them and put them into custody for two weeks. They were accused of stealing, fishing, and damaging the lives of aquatic animals. They paid penalties of Rs. 1150 to Rs. 2,500. The park officials and armies threatened them not to speak of the suffering in custody.

In many cases, the park officials and armies snatched the fishing net and boats and also torn and damaged. As informed by the community members, they were very rude to them. Each of their boats is safely locked at the banks of the Narayani river (as shown in the picture) as the armies often seized their boat and fishing net. Not only this, they were charged around 30-40 thousand each, and they never returned their boats and nets. The CNP has restricted using a Tiyari Jaal, an indigenously knitted fishing net with a thread made up of Resham<sup>19</sup>, and allowed to use of the net made up of plastic thread. One of the community members shared,



Figure 22: Locked boats of Bote fishers (Source: Field observation)

*The park authorities often blame us for the use of Tiyari Jaal<sup>20</sup> in fishing affected Gharial crocodile<sup>21</sup>. This is because Gharial crocodiles live on fish. I have read a research paper that 80% of baby crocodiles flow from the Triveni area. We never do that as the Bote engaging in fishing have already left to use Tiyari Jaal.*

The park officials assume that the *Tiyari Jaal* entangles crocodiles and creatures in the water. Thus, Bote fishers, nowadays, use the net made up of plastic thread. However, they have been accused of killing crocodiles

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19 Silk thread

20 Indigenously made fishing net

21 *Gavialis gangeticus*



and other aquatic animals. Sometimes, they are blamed as poachers and hunters of wild animals. Baliram Bote in Madhyabindu – 2, Kolwa, shared,

*I want to share something, sir. It was an incident last year. We went fishing by Vureli (net made up of plastic thread as shown in the picture) net, and we came across the dead Rhino there. No one could reach this place because of its difficult geographical location. We informed park officials about the incident. No one could rescue them. We together crossed the flooded river. If we had not crossed the river, we wouldn't have found that body because the flood would have been supposed to bury the dead Rhino. They called us and behaved as if we were the killers. They used rude language and threatened us instead. If we engaged in such illegal works, we would also have resided in well-equipped houses, and we also would not have to live in small huts. We are not being able to convince them.*

The park authorities and armies suspect and blame them as illegal actors and supporters of illegal acts. For example, a community member shared that, at one time, a group of Bote youth found a *Khag* (Horn) of Rhino in the forest; they were blamed they supported the poachers of Rhino. Thus, the park has criminalized the traditional activities of livelihoods of the Bote community.

Chitwan National Park (CNP) has altered the ways of living and lifestyles of the Bote community. Few of them have been engaging in city and nature guides based on the training provided by the park. Some have initiated homestays, particularly in Kawasoti -15 of the Baghkhori area. Most of them have already left to collect *Niguro*<sup>22</sup>, *Khadkhadai*<sup>23</sup>, *Babiyo*<sup>24</sup>, *Khar*<sup>25</sup>, timber, fodder, and other forest products as the park has completely restricted entering into the forest and river. It is also

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22 Edible fern

23 Bamboo like small plants the stem of which is used to fence the huts/houses

24 A plant with long leaves used to make rope

25 Wild thatch for making roof of house

difficult for them to collect firewood and shrub for making the broom. The women are often beaten, threatened, and mistreated by the park officials and armies. One of the participants noted, “Last year, my mother was beaten by armies when she went to collect shrubs for making broom”. He further said, “Many other women are suffered from the violence of armies when they to go collect wild nuts and vegetables”. The Bote community has been detached from their customary ways of living based on natural resources.

### 3.7 Key Findings

1. Bote communities were completely dependent on rivers and forests. The lands were controlled by the state, and the CNP was implementing different domestic legal frameworks.<sup>26</sup> The collection of gold motes as the key traditional means of living of the Bote communities was completely lost due to the restriction imposed by the CNP. The land tenure system, the traditional institutions and governance systems such as *Mukhiya* and *Guruwa*, and indigenous technical knowledge associated with the collection of gold were almost disappeared.
2. Freedom of fishing and ferrying as alternative means of living were controlled and limited under particular criteria. Limited Bote fishers with licences issued by the park were engaging in fishing activities, but they have been facing multiple violence time and again, such as seizing of their fishing nets and boats, blaming as criminals, detention, and allegation. Further, they have been facing threats and fear of being accused of illegal activities.
3. With disassociation with the river and forest, Bote have almost lost their spiritual/religious and cultural practices, which were/are linked intrinsically with the natural resources. With the loss of their religious practices (such as *Badko Barne/Gandaki Pooja*), they have

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26 National Parks and Wildlife Conservation Act, 2029 (1973), National Parks and Wildlife Conservation Rules, 2030 (1974), Forest Act, 2019, Buffer Zone Management Rules, 2052 (1996)

lost their indigenous institution and associated indigenous cultural values, beliefs, and worldviews. It has become difficult to sustain their key rituals, festivals, and ceremonies such as birth, marriage, and death, which are not possible without fish and other forest products.

4. Ecological knowledge and skills of Bote generated by themselves through primitive interaction with the river and forest have been exploited by the park authorities as they have been engaged in collecting eggs and hatchlings of crocodiles for a meagre amount of wages.
5. The Bote communities have been evicted from their traditional land territories (river, riverbanks, and forest areas) and limited to a small land holding with no alternative means of livelihood. They have not been provided with land registration certificates and compensation for their involuntary displacement from their ancestral lands.
6. The traditional livelihood activities of the Bote such as fishing, collecting wild nuts and vegetables, ferrying, collecting aquatic species, use of forest products, and so on, have been criminalized. They have been facing intimidation, threat, blaming, fear, allegation, and detention while adopting their customary livelihood activities.

## Section IV: A Case of Tharu at CNP

The lands occupied by the CNP were the ancestral territories of the Tharu Indigenous Peoples. The Government of Nepal enacted a progressive land reform act in 1951, centralizing the ownership of non-registered land in the state. Before the actions of the Government of Nepal, the Tharu had their administrative territory like the *Praganna* system for executing justice, development, religious, and ritual<sup>27</sup> actions. They were also known as forest peoples as they largely depended on forest products for their livelihoods. After the eradication of malaria from 1950 to 1960, many migrants from hilly areas settled in the lands of Tharu. However, there are still many Tharu people who have been residing in the adjoining villages of the CNP. This section discusses the situation of the Tharu peoples involuntarily displaced from their settlement.

### 4.1 Relocation and Landlessness or Near Landlessness

Padampur was a traditional settlement of a group of Tharu surrounded on three sides by the CNP and a side by the Rapti river. The settlement was inside the boundary of the park. The lands were fertile to produce enough crops such as rice, maize, mustard, wheat, buckwheat, etc., for their livelihoods. They had access to natural resources, and later on, the CNP banned fishing, hunting, and collecting forest products. It was in 1994 and onward that the Tharu of Padampur were displaced by the CNP in New Padampur, now Kalika Municipality, Ward No. 5. It was a forest area where the government provided a maximum of 2 *Bigha*<sup>28</sup> land and a minimum of 3 *Katha* whoever those had lands or not in Padampur. Those who had more than 2 *Bigha* lands were compensated Rs. 15000 per each *Katha*, and those who had no lands at all were provided 3 *Katha*. Each household was provided Rs. 3500 for transporting the household materials. Many of them had not received any lands or compensation yet. They collectively agreed at that time as the flood of the Rapti river

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27 <https://nepalbase.org/history-of-tharu/>

28 *Bigha* is a traditional unit of land. 1 *Bigha* = 20 *Katha* = 6772.41 square meters.  
1 *Katha* = 20 *Dhur* = 338.62 square meters.

was the main cause that often swept their cultivable lands and crops. However, the other cause was the torture of the CNP.

One of the participants shared,

*On the one hand, Rapti river cut down 100-200 Bigha of lands of Padampur every year. Sometimes, the water level raised and entered the settlements. On the other hand, the officers and armies deployed in the CPN tortured us repeatedly. They did not allow us to collect forest products such as Khar, Khadai, Niguro, wild nuts, and so on. They banned fishing and hunting. The officials and armies physically and emotionally abused women/girls. They could not go to the forest alone. We fought with them for many reasons. They used to rape our daughters and sisters. They jailed many of us time and again. The days were scary. We were frightened to enter the forest. Wild animals destroyed our paddy and crops. Because of the community forest, we were relatively safe, but before that, there used to be Rhino, Deer, and other animals that often damaged our crops.*

Another participant said,

*Before 1950, the forest was free to use. We used to graze our cattle there. We used to collect grass and firewood for free. The vegetables like Niguro, Kurilo, and similar other wild vegetables were for free. There are rivers and rivulets inside the forest. We used to manage all those sources of water for irrigation. CPN was established and controlled the area, denying us using resources from there. They just banded our resources required for our living. Later, Nepal armies were deployed for security. The flood of the Rapti river gradually made the lands less fertile. The forest was very near to the river, and it was hard for us to access the natural resources. The wild animals damaged the crops. The situation compelled us to migrate here.*

The displaced Tharu in the new Padampur or Kalika Municipality were converted into small land holders. The individuals who had 20-30 Bigha of land in Padampur have now only 2 Bigha, and many are now poor. They cleared forests and made homes by themselves. Many of them spent the compensated amount on constructing houses. Many of them had already sold their lands and had no land at all with no alternatives of living. Small land areas were not enough to feed the families. The soil qualities were not as productive as that of Padampur, and there was no way of irrigation and adaptation of traditional livelihoods. Thus, they were engaging in wage labouring. But, one of the National Trust for Nature Conservation (NTNC) members said, “Local people were displaced outside of Padampur. The displaced people were provided three times of land they had. Now, they have good living and lifestyles with Banana farming. They are happy as they have access to water and road.” It was decided to provide three times lands to those who had 1 *Kattha*<sup>29</sup> or less. However, there were still 35 households that didn’t get compensation.

Most Tharu at Padampur had lands enough to inhabit with customary living. The lands were central to their culture, religion, and economic activities. It was important for their identity and self-sufficiency (McLean, 1999). Now, they are forced to relinquish the lands. The religious and cultural practices of the Tharu are at risk of disappearance. The displacement of Tharu created a situation where they were unable to celebrate their festivals, rituals, and ceremonies as in the ancestral contexts.

## 4.2 Loss of Traditional Governance System

In Chitwan, there were different areas governed by the *Praganna* system named *Belaudi*, *Kumroch*, *Taar*, *Gaidwar*, *Sanjot*, *Madi*, and so on. Padampur was under *Sanjot Praganna*. Tharu had their own socially constructed rules and procedures to govern the communities, execute development, settle disputes, management of rituals, ceremonies, and

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29 It is equivalent to 338.63 m<sup>2</sup> (3,645 ft<sup>2</sup>)

festivals. Tharu/Chaudhary was appointed as the head of *Praganna*. *Sanjot Praganna* was also responsible for the management of natural resources. It formulated the rules, regulations, and policies for governing the communities. The members of the *Praganna* would sit together in a group of 4-5 and confirm the things to do for family, family members, and the community itself. This was the traditional governance in the Tharu community, which was no more there in New Padampur.

### **4.3 Limited to the Rituals of Tharu Festival: Threat of *Machhuwari***

Tharu have several festivals, most of which they celebrate for three days. *Machhuwari* is celebrated a day before the main festival and has an intrinsic connection with the fish. The fish is the main item of food on the day. Traditionally, they went to the rivers and rivulets to catch fish. But, CPN has completely banned collecting fish. Now a day, most of them buy fish from the market. It used to be so wonderful as some of them would go to the forest to collect grass together with firewood and some to the river for fishing. *Tihar* festival is also quite different to them as they celebrate it for three days as the first day is to make flour of the cereals. They celebrate a *Machhuwari* on the day of *Tihar*. The next day, they have *Gobardhan Pooja* (Worshipping of bullocks) as cattle need to be fed well. Likewise, they celebrate *Machhuwari* a day before holy *Purnima* with a dish with a special item such as a fish, and the next day they eat other items. *Machhuwari* is also one main in *Pitri Aunsi*, worshipping of spirits of ancestors. They need fish to offer while worshipping the ancestors.

But, they are banned from fishing. Many of the households have already left *Machhuwari* as they are denied to catch fish in the river and rivulets. Though, sometimes, they go to collect fish in groups secretly without making it known to the administration and security personnel of CNP. But, they have been facing threats and fear of accusing criminals of the park authorities and armies. They catch a few just to offer spirits of ancestors, not for eating as before they were in the Padampur. Thus,

*Machhuwari* has become a ritual practice just to continue the practices of their ancestors.

#### 4.4 Threat to Spiritual Practices

Padampur was the place where the Tharu ancestors developed several religious and cultural practices, such as *Gramthan* (a shrine in which Tharu collectively worshipped the lands twice a year, in July and December). *Gramthan* was supposed to have self-emerged in which there were *Saligram*<sup>30</sup>, sacred black-coloured Ammonoid fossil stones. It was believed that the *Gramthan* moved away or ran away if something wrong happened or the deity was dissatisfied with the actions of humans. The *Gurau* (*Gaubaniya*) identified where was and should be *Gramthan*. *Gurau* worshipped when the crops were destroyed by weevils, rats, and other animals or any other natural disasters. He worshipped on the full moon and new moon. It was believed that the Rapti river could not sweep their lands if the spirits and deities were satisfied. They sacrificed two goats, 6-7 cocks, and 8-10 pairs of pigeons. It was believed that the lost domestic animals would come back when the *Gurau* worshipped in the *Gramthan*. The community collectively worshipped nature, forest spirits, and deities, including the forest goddesses.

Tharu had a particular religious tradition of *Barna Pooja* which is rarely followed in the displaced context. There was a shrine in each village made with a structure of a god crafting a wooden log under a hut of grass (*Khar*). *Barna Pooja* was collectively performed five times a year. *Gurau* as a spiritual leader, has a key role in performing the rituals. *Asari Barnais* performed within June at the time in which they started the paddy farming. They sacrificed a pair of goats, a pair of hens, and cock. They had a belief that the *Asari Barna* made good crops. The second is *Hariyari Barna* which was conducted at the time when the crops grew and became green. The community people took a rest, and they were not allowed to go to the cultivable lands on the day of *Barna Pooja*. The day was a holiday as one could do the full rest. It was also at

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30 Variety of stone collected from riverbanks



the time of selecting out the unwanted grasses and herbs. The third was *Leruipaayeth* (straw) which fell in December/October. It was conducted when the paddy was harvested. It was done for the protection of harvested crops from weevils and rodents. Some named it *Lawangi Barnaas* they offered new crops to the god. They did not take the food from new crops without conducting *Lawangi Barna*. *Nikat Barnawas* the last one that was conducted in February which was conducted to protect the crops from diseases.

An incidence shared by a participant is

*There was powerful Gurau in the past, such as Badki Gurau (Great Gurau) or Rajai Gurau. He used to communicate with the god for 15 days. He worked a whole day long and in the evening. At one time, paddy was grown in the village, but there was no seed within the rice grain. The pests damaged all paddy. Badki Gurau (Great Gurau) or Rajai Gurau worshipped Barna, and later all the grains of paddy changed to full of seeds and the pests were slowly removed. It was a miracle incident*

There was another ritual of *Jaagari Barna*, which was conducted after five years. *Gurau* conducted this to bring back the deity lost or ran away from the original location. It was believed that *Gurau* could find the direction and space where the deity had gone. They had a belief that *Gurau* could search the deity even if it was inside the earth and water. A team composed of five unmarried girls and some boys under the leadership of *Gurau* moved in the direction indicated by *Gurau*. The unmarried girls carried water pots, and the boys spread the sacred grains all around the village. The *Gurau* recited Mantra, a sacred utterance. The youths or villagers played musical instruments such as Madal<sup>31</sup>, some sang songs, and two of them carried a Doli<sup>32</sup>, a palanquin. It is assumed that the deity

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31 A fork musical instrument in cylindrical shape the circular faces of made of dried skin of animals are beaten to produce rhythmic sound

32 A sack made of cloth and hung on a horizontal pole and carried by two bearers and particularly used to carry bride in a marriage ceremony

sits there in Doli. In this way, they bring back the deity in the *Gramthan*. In addition to this, Tharu worshipped the spirit of past ancestors called *Pitri Aunsi*. Yamusa is celebrated on the day of *Pitri Aunsi*. This was a great ritual particularly celebrated in Nawalparasi district areas. This was the worshipping of the spirit of ancestors pouring the holy water. A bushy grass (*Siru*) was used to make a shrine in the house, and it was supposed to be the *Pitri* to worship. They offered wine, marijuana, tobacco, water, and so on to the spirit of the ancestors. Traditionally, they celebrated to the fullest as they invited the nearer and dearer ones to participate in the offerings. However, recently, the ritual was given less priority as they did not have easy access to the resources needed for the ritual. These religious practices were almost not there in the new settlement, Kalika municipality, or New Padampur. Almost no Tharu households engaged in agricultural activities due to limited land holdings. They were banned from using natural resources. With the loss of customary livelihoods based on traditional agriculture, particularly paddy farming, they have almost lost their spiritual practices associated with nature.

#### **4.5 Declining Customary Ways of Living with Loss/Exploitation of Tharu Indigenous Knowledge**

Before the establishment of CNP, the Tharu people had access to natural streams, rivers, and rivulets for irrigation. There were enough spaces for grazing animals and keeping livestock such as sheep, goats, buffalo, and cows. Fishing, animal husbandry, and agriculture were their traditional livelihoods. There were big cowsheds where some households kept 100-150 cows. They had easy access to forest resources such as fodder, firewood, timber, herbal plants, and other sacred plants. However, these traditional livelihoods were banned later after the establishment of CNP.

Tharu had a particular housing pattern made of *Khadai*<sup>33</sup> and pasted over it with mud or clay in Padampur (as shown in the picture). They used *Khar*<sup>34</sup> (a bushy plant with long leaves) to make a roof. They used

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33 Small bamboo like plants the stem of which is used to fence the house

34 Small plant with long leaves used to make roof of house/huts



*Karkalo* (Colocasia stem), and *Tarul* (Yam), *Kurilo*<sup>36</sup> (Asparagus), *Simsaag* (Watercress), and so on. They are fined Rs. five hundred even are found collecting firewood in and outside the park areas, buffer zones, and community forest areas.

The Tharu in New Padampur had no more of these practices as they had no access to such natural resources and biodiversity in their context. They have been compelled to adopt poor economic, social, and cultural lives. They have almost left the practices of natural resource-based traditional livelihoods. The detachment of Tharu peoples from the natural resources and customary living practices created a serious threat to the loss of their corpus of indigenous knowledge. One of the conservationists shared,

*Tharu people had intimate relationships with flora and fauna, animals and birds. They used to use the dry Rhino dung in smoking. They mixed the dung with tobacco and rolled in the leaves of plants, and smoked. Also, they burnt the dung of Elephants and Rhinos to get heat for the body. These were used as firewood for cooking. The smoke and heat from the Rhino dung worked as medicine for the body to keep warmer. But, the authority of the park has banned collecting such dungs.*

In many cases, the Tharu indigenous knowledge has been exploited by the park authorities. The officials of the park used local Tharu peoples to find, capture, and rescue animals such as tigers, Rhinos, elephants, and others as they knew where these animals live, and what they do. They were used as guides. One of the wild animal photographers said that he initially used the Tharu people as guides to find the animals and birds in the national park areas as they were familiar with the whereabouts of the animals.

## 4.6 Key Findings

1. Tharu peoples have been evicted by CPN from their ancestral lands

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36 Wild vegetable

(Padampur), converting them to landlessness or near landlessness. Most of them were limited to being small landholders with less freedom and autonomy in adopting customary living and lifestyles. Many of them were in poverty with vulnerable livelihoods. They have been compelled to adopt wage labouring and a few of them in banana farming. The alternative means of livelihood were inadequate to support the basic requirements of living.

2. The traditional governance system of the Tharu peoples has been lost in the new context as the powerful modern state structure replaced it. They have been acculturated with the mixed communities migrated from different parts of the country.
3. The festivals, rituals, and ceremonies of Tharu are hardly conducted in New Padampur since the context with less access to appropriate natural resources could not provide them with the space to adopt ancestral practices. Many cultural practices have almost lost their essence and hence become rituals for the sake of continuity maintained by few those who have the sensation of preserving and protecting these.
4. The religious practices (worshipping deities) of Tharu associated with paddy farming were almost lost as most of them had no cultivable lands at New Padampur. The relocation of Tharu has isolated them from spiritual relationships with the nature. Thus, the religious practices of the Tharu were at risk of disappearance.
5. With the eviction of Tharu from their traditional lands, they were disconnected from the customary living based on surrounding natural resources. With the loss of traditional livelihoods, they were compelled to lose the indigenous knowledge they generated through continuous interaction with the surrounding environment and passed down from generation to generation. In many cases, the park authorities have exploited their indigenous/ecological knowledge, using them in conservation activities.

## Section V: A Case of Chepang at CNP

Kusum Khola is at Madi Municipality-9 of Chitwan district. It is in the buffer zone area of the CNP, where some of the Chepang arrived from their ancestral lands such as Wakrang, Taprang, and Raksirang of east Chitwan and neighbouring districts (Dhading, Makawanpur, and Tanahun) in around the 1990s as they have nomadic lifestyles. Many of them migrated to this area as their houses and lands had been swept away by massive landslides homelands. There were about 17 households of Chepang, and the number increased to 160 in 2016. They had occupied large areas of land for about more than 30 years with a specific traditional livelihood of shifting cultivation and growing rice, maize, millet, and buckwheat. They had a tradition of livestock keeping and poultry farming. Each household kept at least 50/60 domestic animals. They had a traditional oil mill to press the mustard seeds. It was easier for them to collect wild foods such as *Patale Tarul* (Wild Yam), *Gittha* (Aerial Yam), *Bhyagur* (Groundnut), *Tyaguna*, *Chuiya*, *Nettle*, *Wild Spinach*, and other medicinal plants. They had enough space for root cultivation and fruits such as *Pidalu* (Colocasia Fruit/Yam), *Suthuni* (a kind of yam), *Kagati* (Lemon), *Nibuwa*, *Khursani* (Chili/ Green pepper), etc. It was not so troublesome for them to fulfil their basic livelihood requirements. Most of them have left their religious and cultural practices as most of the Chepang had adopted Christianity.

### 5.1 Oppression against Chepang

Chepang families were time and again dispossessed from the Kusum Khola area as it was declared the buffer zone of CNP. It was in 2001 that 63 households of Chepang were forcefully displaced from their lands. They were relocated forcefully without prior notification and alternative management. They started to live in some different areas. Banks of Bagai river and Govinda Basti (Madi Municipality Ward No. 9 of Chitwan) were the major locations they occupied after being chased by the park coercively. The park provided them with tents and about 20 Kg of rations for each household for temporary living. After four months, CNP again

allowed them to return to Kusum Khola.

It was in July 2020 that CNP again violently evicted Chapang families from Kusum Khola. The park authorities and armed forces of the Nepal army vandalized their houses. Two huts of Chepang were burnt down, and eight were destroyed by using elephants without any consultation and information before making happen of such inhuman activities. They lost all their food grains, identity documents, money, utensils, and other possessions. They faced threats from the park officials and armies. The park authorities chased them time and again from the buffer zone. They had nowhere to go. One of the displaced women said,

*Armies came without prior notification and said you have no right to live there. They threatened time and again, showing sticks and guns. There was a moment when an elephant came there and destroyed houses, including everything inside. Two houses were burnt down. Nothing left. Everything lost. The food grains were lost and destroyed everything, including all the bed, cushion, and utensils. It's been two years since we came here. I couldn't live and hence came to this place, Parui Khola.*

As informed by Kamal Chepang, Vice-Chair of Nepal Chepang Association, Madi Municipality, 80 households in Rai Tole, Krishna Nagar, Madi-9, and 55 households at the bank of Parui Khola (Parui river), Madi -7 were evicted by CNP (as shown in the picture). The park disassociated them



Figure 25: Chepang settlement at the bank of Parui river (Source: Field observation)

from their traditional lands without offering any compensation for their loss at Kusum Khola. Again a few households (four from Rai Tole and six from Parui Khola) have returned to Kusum Khola and rebuilt temporary thatched huts and were living with the fear of suffering the same fate again. At the bank of the Parui river, there is a cluster of huts of Chepang. The river has been recently embanked, but the level of the river crosses its height in the summer season and enters the settlement immersing the huts. Due to this, the Chepang have to spend several nights unslept with the children and other family members. They are under the fear of the flood of the Parui river. As the study team observed, a few children were playing in the mud and a few sick, older people were at their homes.

The livelihoods of Chepang at the bank of the Parui river are miserable. The Madi Municipality has provided the lands just enough to make huts. The lands were not registered in their names. They were squatters with no legal recognition of their lands. It is difficult for them to fulfil the basic requirements of livelihood. They have no way to engage as wage labourers in the construction works nearby the settlement. They have no access to natural resources (lands and forest products) as they had traditional means of living at Kusum Khola. They earn a maximum of NPR 600 a day which hardly fulfils a day's meals. Many of them are tenant farmers through which they earn two or three *Muri*<sup>37</sup> of food grains (particularly rice) as they have no cultivable lands at all except the area for making small huts.

Following the forceful disassociation of Chepang from their traditional lands, Madi Municipality issued a press statement condemning the Park's act of displacing Chepang families and expressed commitments to reinitiate the construction of houses and provide housing as soon as possible.<sup>38</sup> Accordingly, Madi Municipality started to construct houses for them, but the park stopped the project as it was the buffer zone area. The Chepang families at the bank of the Parui river are still awaiting permanent

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37 1 Muri = approximately 80 Kgs

38 <https://www.culturalsurvival.org/news/chebang-families-still-waiting-housing-after-conservation-officials-burned-down-their-homes>



housing promised by the government/Municipality (as shown in the picture). However, as informed by Kamal Chepang, the local government has already managed 150 Chepang families in Raidanda, Gairigau, Shivadwar, and Pyauli (Madi-9), providing 1 *Kattha*<sup>39</sup> of land. However, the new houses being built for them in Pyauli, and Parui river bank were stopped by Park authorities, as the area also lay in the buffer zone. Thus, the relocation program was stopped. It is evident that the



Figure 26: Start of making houses by Municipality for Chepang and stopped by CNP (Source: Field observation)

Chepang Indigenous Peoples have been oppressed by the park time and again. They have been deprived of shelter, food, and other basic livelihood requirements.

## 5.2 Criminalization

The CNP authorities often blame the Chepang people as thieves or criminals, or poachers. One of the member of The National Trust for Nature Conservation (NTNC) members shared that the Chepang, nowadays, are mobilized for the preservation and protection of wildlife. He further said, '*Chor Ko Hat Ma Chaabi*' (Key at the hand of the thief). He meant that the Chepang were poachers or involved in the poaching of Rhino and other wild animals. Thus, they have been living in intimidation and fear of being labelled as poachers, accused of fishing

39 Katha = 20 Dhur = 338.63 m<sup>2</sup> = 3645 sq.ft.

and trapping animals and collecting forest products.<sup>40</sup> World Wide Fund For Nature (WWF), working in Chitwan National Park, launching the rhino conservation programme, has equipped, trained, and supported the park officials to create a threat and accuse the Indigenous Peoples like the Chapang of poaching wild animals.<sup>41</sup>

The CNP authorities and armies have been involved not only in the criminalization of the traditional activities and livelihoods of the Chepang but also in the inhuman act of killing after a long time of alleged torture in custody.

*On July 22, 2020, Raj Kumar Chepang (24) of Rapti Municipality-2 died due to alleged torture by an army patrol inside the Chitwan National Park. On July 16, Raj Kumar and six of his colleagues, including two women, had gone to collect Ghongi, a species of snails considered a delicacy, in the Jyudi River inside the Park. They were detained and allegedly tortured by army officials and were released the same day. On July 24, Bishnu Lal Chepang, Raj Kumar's father, filed a complaint at the district police office, claiming that his son was tortured by the army, leading to his death. For an autopsy, the body has been taken to the Tribhuvan University Teaching Hospital in Maharajgunj, Kathmandu.<sup>42</sup>*

The death of Raj Kumar Chepang illustrates the state's injustice towards Chepang. This systematic attack drives them away from traditional land territories and natural resources. With such an assumption of the involvement of the Chepang in criminal acts, The National Trust for Nature Conservation (NTNC) has initiated to educate the Chepang and their children about the conservation of wild animals. It has opened a

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40 <https://www.culturalsurvival.org/news/violence-against-chepang-peoples-nepal-sparks-outrage-national-park-authorities-and>

41 <https://www.culturalsurvival.org/news/violence-against-chepang-peoples-nepal-sparks-outrage-national-park-authorities-and>

42 <https://www.culturalsurvival.org/news/violence-against-chepang-peoples-nepal-sparks-outrage-national-park-authorities-and>

school for them, and many of the Chepang children are kept in hostels. It has provided certain livelihood activities for the Chepang women. It has been conducting awareness and sensitization to educate the Chepang communities. Moreover, the NTNC has formed 20 anti-poacher groups, including the members of local communities.

### **5.3 Key Findings/Insights**

1. The Chepang were repeatedly dislocated from their traditional lands with the inhuman treatment of park authorities. It was without FPIC and alternative measures of livelihood. The dislocation without any compensation compelled them to fall under the vicious circle of economic poverty with landlessness and denial of use of natural resources. They were living without adequate food and proper shelter/houses. They were forced to engage in low-paid wage labouring and tenant farming for their survival.
2. The Chepang have been treated as the offenders whilst adopting their customary practices of livelihood such as fishing and collecting forest products. The customary ways of living based on natural resources were criminalized. They were repeatedly accused of poaching and trapping wild animals. Thus, they were alleged and detained for several days with inhuman torture, threats, and even killing.

## Section VI: Overall Insights and Discussion From the Legal Perspective

There are several legal frameworks for managing and regulating activities of protected areas, such as DHR and CNP. The Constitution of Nepal 2015 (Article 51) stipulates the state policies which focus on protecting, preserving, and making sustainable use of natural resources (forests, wildlife, birds, vegetation, and biodiversity) in the preferential right to the local communities. However, the constitution (Number 27 of Schedule 5) has further provided the federal government with the right to manage the hunting reserve and national parks. The hunting reserve and national parks are governed by several policies such as National Parks and Wildlife Conservation Act, 2029 (1973), National Parks and Wildlife Conservation Rules, 2030 (1974), Forest Act, 2019, Himalayan National Park Rules, 2036 (1979), Rangeland Nationalization Act, 2031, Rangeland Nationalization Rules, 2033, Buffer Zone Management Rules, 2052 (1996) and other directives related to these legal frameworks. These national frameworks completely ignore the customary autonomy and right to self-determination of Indigenous Peoples like Magar, Bote, Tharu, Chepang, and others in managing their own land territories and natural resources. However, the international human rights standards safeguard their inherent pre-state rights of land territories and resources.

Despite the General Assembly's adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and several international human rights instruments<sup>43</sup>, the human rights situation of Indigenous Peoples inside and outside adjoining villages of DHR and CNP is massively disgraceful. DHR and CNP have been continuously violating

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43 The Indigenous and Tribal Peoples Convention, 1989, International Labor Organization Convention, Convention 169, or C169, The Convention on Biological Diversity 1992, The International Covenant on Civil and Political Rights 1966, The International Covenant on Economic, Social and Cultural Rights 1966, The Convention on the Elimination of all Forms of Discrimination Against Women 1979, The International Convention on the Elimination of All Forms of Racial Discrimination 1965, and Convention Concerning the Protection of the World Cultural and Natural Heritage 1972, and so on

the collective rights of Magar, Tharu, Bote, Chepang, and other Indigenous communities, especially regarding traditional land territories and resources, customary laws of lands management, and management of transhumant pastoralism, traditional culture, spirituality, and livelihoods. The military interventions and operations in indigenous territories intensified the rights violations such as forceful displacement, intimidation, heteronomy, violence against women, etc. They have been facing unjust benefit sharing. In addition, the violation of the right to recognition, consultation, participation, FPIC, and the right to self-determination was visible in the affected areas of DHR and CNP.

### **6.1 Forceful Eviction From Lands, Territories, and Resources**

Magar, Bote, Tharu, and Chepang have been coercively dispossessed by DHR and CNP from their traditional lands without compensation, thereby making them fall under landlessness or near landlessness with vulnerable livelihoods. They are legally recognized (Adivbasi /Janajatis) Indigenous Peoples, entitled to specific and distinct rights stipulated under the Constitution of Nepal, 2015 and NFDIN Act 2002. The International laws and Jurisprudences, particularly the ILO Convention 169 and UNDRIP, which provide special rights to Indigenous Peoples to the lands, territories, and resources, have been violated in prima facie. For instance, ILO Convention 169 (Article 13 to 19) recognizes the rights of Indigenous Peoples to retain customary ownership, possession, control, and use of land territories and natural resources. Further, the UNDRIP, 2007 has envisaged not just the ownership of the lands; rather, Indigenous Peoples have the right to exercise their customary land tenure systems. Particularly, the article 26 of the UNDRIP not only provides 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 they have otherwise acquired but also obliges the state to give legal recognition’.

Contrary to this, the domestic legislations are against the legal principles of international frameworks of human rights. The state

owned and controlled the lands, territories, and resources of Indigenous Peoples by introducing domestic legislation. For example, Private Forest Nationalization Act 1957 [1956] included all forest land converted under the category of government ownership which had previously been used under customary systems of Indigenous Peoples. The National Parks and Wildlife Conservation Act, 1973, Forest Act, 2019, and other legal frameworks of Nepal are not in favour of protecting the land rights of Indigenous Peoples. In addition, as a legacy of decrees imposed in the period of authoritarian regimes, the Constitution of Nepal 2015 completely fails to recognize the inherent or primordial rights of Indigenous Peoples in their ancestral lands, territories and resources. As the pre-existing rights over lands, territories, and natural resources, the state could not confiscate in any way and means. In this sense, the spirit of the constitution is inconsistent with the international frameworks.

Forced eviction of Indigenous Peoples from their traditional lands territories without any compensation has curtailed their rights to exercise the customary land tenure systems (UN, 2007) of transferring land parcels to clan groups. Pasture land Nationalization Act, 1974 through Pasture Land Nationalization Rules, 1976 undermine the customary laws of managing lands (rangelands) or transhumant pastoralism. The National Park and Wildlife Conservation Act (NPWCA), 1973 is a hostile law and inconsistent with the pre-existing customary rights of Indigenous Peoples. Further, the law and subsequent regulation are inconsistent with the ILO Convention 169 and the UNDRIP that allows retaining their rights over customary lands and resources *vis-a-vis* the rights to the conservation.<sup>44</sup> Sec. 3 of the NPWCA provides ownership transfer and repeal of the conservation, which opens doors to address the rights of Indigenous Peoples over lands, territories, and natural resources in a harmonious manner in the present context.

## **6.2 Threat to Traditional Institutions and Governance**

The socio-political systems of Indigenous Peoples (*Kachahari, Gwala,*

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44 Article 13 of the ILO Convention 169 and Articles 26, 28 and 29

and *Katuwal* in Magar, *Gurau* and *Praganna* in Tharu, *Mukhiya* and *Guruwa* in Bote, and *Pande* in Chepang) in areas of DHR and CNP are under threat to loss (in some cases these are already lost). The systems are the traditional institutions that promote democratic practices of governance and management of lands, legal, socio-cultural, and religious practices. In the legal context, the traditional institutions of Indigenous Peoples are their identity; they have the right to life along with their distinct identity as prescribed under article 51(j)(8) of the Constitution of Nepal, 2015. These are the heritages which are to be protected and promoted as fundamental rights as stipulated in the constitution of Nepal 2015.<sup>45</sup>

The traditional governance systems were the institutions for exercising their self-determination, including autonomy and self-governance. Article 56 (5) of the Constitution of Nepal 2015 has guaranteed the ‘special, protected or autonomous region’ to promote ‘socio-cultural protection and economic development’. The provision has provided a little space for Indigenous Peoples to exercise their autonomy with customary laws. Still, the spirit of which is, on the one hand, not in the place of implementation, and on the other hand, the provision is applicable within the existing governance structure (local levels/s or village bodies) of the state. However, in actuality, the constitution has not recognized the indigenous autonomy and self-governance with the right to self-determination (autonomy, self-governance) in controlling, protecting and managing their lands.

### **6.3 Militarization, Criminalization, and Intimidation**

A serious violation of Indigenous rights appears in the mobilization of Nepal armies at DHR and CNP. Forceful ‘military activities in their lands without ‘effective consultations through representative institutions’ is an explicit violation of their rights (United Nations, 2007). Militarization has curtailed their primordial rights of adopting customary life ways (UN, 2007) as the local Indigenous Peoples have been restricted from using the

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45 Article 32 (3) of the Constitution, 2015

means of livelihood from their surrounding environments. The traditional practices of living of Magar at DHR and Bote, Tharu, and Chepang at CNP based on natural resources have been turned into criminal activities. National Parks and Wildlife Conservation Act, 2029 (1973) does not allow them to enter the reserve without an entry permit (Sec. 4) and prohibits to use of lands and forest resources (Sec. 5). These prohibitions explicitly violate the right to customary lifeways of those Indigenous Peoples. They have been kept away from their autonomy and freedom to use the resources from their ancestral lands. In addition, militarization has caused abuses, harassment, threat, illegal arrest, and detention of those Indigenous Peoples. Many of the detainees have been illegally kept and inhumanly intimidated and tortured in the camps for several days without any legal processes. In addition, it has curtailed fundamental rights such as freedom of expression (Government of Nepal [GoN], 2015), as many of them are under fear of suppression. The government has intensified its repression by subjugating the voices of Indigenous Peoples through militarization to protect the reserve and park. The militarization for the protection and conservation of natural resources has violated the peace, sowing fear, and caused disunity within the community.

The military camps set up in public areas have been violating the peace, sowing fear and threat to local Indigenous Peoples at DHR and CNP. This is against their fundamental rights of freedom of movement in their lands and accessing the resources that they inherently held as their rights for centuries. The intimidation of Nepal armies has also violated their rights to expression or speech freely. Terror for women and girls as implicit violence is a right violation. Many serious cases of violence, such as rape and killing, have also surfaced and exposed repeatedly. Thus, it is due to the forceful ruling over the indigenous communities that they are denied to have freedom, autonomy, and the right to self-determination in living.

Himalayan National Park Regulation, 2036 (1979) has respected the continuation of the traditional livelihoods of local people. Regulations 24 and 27 permit them to collect timber, firewood, herbal plants and



use rangelands for grazing livestock. However, National Parks and Wildlife Conservation Act, 2029 (1973) prohibits particular actions such as grazing domestic animals and collecting forest resources (Article 5). But, there are complete restrictions on many of the customary practices such as fishing, hunting, extracting sand from the river, collecting wild vegetables, firewood, logs, timber, and so on in both DHR and CNP. With the dispossession of land territories and resources, Magar, Bote, Tharu, Chepang, and other non/Indigenous Peoples have been continuously detaching from their traditional ways of living, which is against the right to adopt their customary livelihoods (UN, 2007; ILO, 2009). This has been persistent for several years since the declaration of the hunting reserve and national park.

Section 4 and 5 of the NPWC Act, 1973 prohibit entering the National Park without written permission from authorized personnel. It is strictly forbidden to carry out agricultural activities<sup>46</sup>, graze domestic animals<sup>47</sup>, and collect forest-related resources.<sup>48</sup> These provisions directly make Indigenous Peoples' traditional means of subsistence, including farming, animal husbandry, collecting forest foods, etc., illegal and subject to punishment minimum fine of NRS 1000.00 to a maximum of NRS 20,000.00 and a maximum of two years of imprisonment.<sup>49</sup> These provisions and activities are detrimental to the food security of Indigenous Peoples in the affected areas of DHR and CNP. The provisions of the Act contradict Article 36 of the Constitution of Nepal 2015, as it states the right to food/sovereignty. The constitutional spirits are manifested in Food and Food Sovereignty Act, 2019. The Indigenous Peoples were facing a lack of quality food (largely in the case of Chepang), and they were denied to have culturally accepted food (against this Act) when detached from the natural resources. They were unable to protect traditional and indigenous food<sup>50</sup> and obtain protection against the deprivation of

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46 Sec. 5(c) of NPWC Act, 1973

47 Sec. 5 (d) Ibid

48 Sec. 5 (e) Ibid

49 Sec. 26 (5b) of the NPWC Act, 1973

50 Sec. 12(e) Ibid.

agricultural occupation arbitrarily.<sup>51</sup>

In contrast, the NCWP takes an approach to criminalize the traditional activities of Indigenous Peoples, depriving them of getting food to survive. Importantly, article 1 of the Constitution clearly articulates that the Constitution is the fundamental law of Nepal. Any law inconsistent with this constitution shall, to the extent of such inconsistency, be void. However, this does not appear in practice.

#### **6.4 Threat to Loss of Indigenous Knowledge, Culture, and Religion**

There is a serious risk of the loss of culture, language, and spiritual or religious practices attached to the lands and natural resources of Magar at DHR and Bote, Tharu, and Chepang at CNP. Article 13 (1) of UNDRIP obliges the government to recognize Indigenous Peoples' special relation between culture and spiritual values with lands and territories that they have traditional access to. Similarly, article 15(1) talks about especially safeguarding the rights of the Indigenous Peoples pertaining to natural resources. These rights include the right to participation in the use, management and conservation of these resources. The Constitution of Nepal (2015) also envisages that 'the communities have the right to preserve and promote their language and culture, cultural civilization, and heritage' [Article 32 (3)] (p. 23). Furthermore, the Constitution stipulates the 'right to operate and protect their religious sites' [Article 26 (2)] (p. 21). The occurrences of such insensitive activities of DHR are out rightly rejected by the spirits of ILO C 169, UNDRIP 2007, and many other standards.<sup>52</sup> For example, Article 5 (a) of ILO C 169 specifies, 'the social, cultural, religious and spiritual values and practices of these

51 Sec. 12(f) Ibid.

52 The Convention on Biological Diversity 1992, The International Covenant on Civil and Political Rights 1966, The International Covenant on Economic, Social and Cultural Rights 1966, The Convention on the Elimination of all Forms of Discrimination Against Women 1979, The International Convention on the Elimination of All Forms of Racial Discrimination 1965, and Convention Concerning the Protection of the World Cultural and Natural Heritage 1972, etc.

peoples shall be recognized and protected’ (p. 4).

The traditional livelihoods of Bote (collection of gold motes and fishing) were almost relinquished due to the restriction imposed by the CNP. With the denial of the use of lands and natural resources, they have nearly lost their traditional land tenure system, traditional institutions and governance systems, and spiritual and cultural practices. The actions of the CNP contradict the basic principle of Convention No. 169, which specifies the right to retain some or all of the social, economic, cultural, and political institutions of the Indigenous Peoples like Bote. The activities of the park are also against the UNDRIP that affirms the need to respect and promote political, economic, social structures, culture, spiritual traditions, and especially their rights to lands, territories, and resources.<sup>53</sup>

Restriction to interaction with the natural resources has created a serious threat to the disappearance of indigenous knowledge associated with Indigenous Peoples’ traditional livelihoods, cultural artifacts, and spiritual beliefs. This is against what UNDRIP (Article 31) safeguards their rights to ‘maintain, control, protect and develop their cultural heritage, traditional knowledge, traditional cultural expressions, technologies and cultures’ (p. 22). The loss of indigenous traditional knowledge is also in contradiction to what article 8(j) of the Convention on Biological Diversity 1992 stipulates the role of the state to ‘respect, preserve and maintain the knowledge, innovations, and practices of Indigenous Peoples’ (UN, 1992, p.6). Further, in some cases, Magar, who holds ecological knowledge, has been compelled to involve in collecting and trading medicinal plant species for the larger benefit of external traders without protecting their ‘intellectual property (UN, 2007, p. 22) rights. Similarly, indigenous knowledge of Bote, Tharu, and Chepang at CNP is already lost or in serious threat of loss due to their displacement. In many cases, their knowledge is used for CNP and hence they are exploited by providing low wages (e.g. collection of crocodile eggs). The state has failed to safeguard the rights of Indigenous Peoples to be consulted, benefitted, and compensated whilst using their resources (ILO 2009, Article 15.2).

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53 UNDRIP Preamble, paragraph 7.

Article 31 (1) of the UNDRIP provides a range of ‘rights, including maintaining, controlling, protecting, and developing cultural heritages, cultures including human and genetic resources, and knowledge of the properties of fauna and flora, etc.’. The existing NPWC Act, 1973 directly contradicts with aforementioned international law that Nepal is a party to. On the other hand, Sec. 9 of the Treaty Act, 1991 says that the provisions of International law are equivalent to national law, and in case of inconsistency, the provision of international prevails over the provision of national law. However, this provision has not been taken into account in the administration of laws in the protected areas. In addition, the Constitution of Nepal 2015 guarantees the right to religion as fundamental right that incorporate the right to freedom of religion: (1) ‘Every person who has faith in religion shall have the freedom to profess, practice, and protect his or her religion according to their conviction’. The fact demonstrates that communities’ right to religion guaranteed under the constitution has been violated.

Importantly, some of the existing constitutional provisions give the community a space to retain such practices, particularly for the Indigenous community. Article 51 (j) (8) of the Constitution, 2015 (Directive Principle) articulates that Indigenous Peoples have the right to protect and promote their traditional knowledge. The constitution is strictly in favour of protecting, preserving, and promoting Indigenous Peoples’ cultural, heritages, and religious practices (Article 32.3). However, the NPWC Act 1973 is silent concerning indigenous cultures, traditions, and identities. The constitutional provisions prevail over all existing laws, including NPWC Act 1973. However, as the shreds of evidence discussed in the earlier sections indicate, the state is insensitive and reluctant to implement the constitutional provisions and international laws in the case of management of DHR and CNP.

## **6.5 Consultation, Participation, and FPIC**

There was no representative participation of Indigenous Peoples in the decision-making of deployment of Nepal armies. The coercive placement

of armies without free agreement or request of them has violated not only their basic human rights, such as recognition, participation, and consultation but also FPIC. Sec. 3 (a) of the National Parks and Wildlife Conservation Act, 2029 (1973) states, “Government of Nepal may declare any peripheral area of a national park or reserve as a buffer zone by publishing a notification in the Nepal Gazette and indicating the boundaries thereof”. Thus, the Act allows the government to declare a buffer zone without any consultation with the local Indigenous Peoples to obtain FPIC. The government was insensitive and hence avoided the recognition, consultation, and representative participation (UN, 2007; ILO, 2009) of Magar and other non/Indigenous Peoples in the processes of developing the Dhorpatan Hunting Reserve Management Plan (2076/77-2080/81). World Wide Fund for Nature (WWF), which has technical support in the process of declaring a buffer zone at DHR, seems to be indifferent to implementing an agreement made with the government of Nepal to respect the rights of Indigenous Peoples. The exclusion in matters that affect them in their land territories is an explicit violation of FPIC (UN, 2007; ILO, 2009) and the right to self-determination (UN, 2007).

In addition, local non/Indigenous Peoples have completely been excluded in terms of benefit sharing in/of DHR. This is not in favour of the spirit of the Constitution of Nepal (2015), as Article 51 [g (1)] envisages ‘make an equitable distribution of fruits, according to priority and preferential right to the local communities’ (p. 37). UNDRIP does not refer to benefit-sharing as such, but this is supported by ILO C 169 and UNDRIP 2007, specifying that Indigenous Peoples have the right to ‘decide their priorities and to exercise control over their development’. However, this has not been practised in the case of the DHR for long.

## **6.6 Involuntary Displacement and Vulnerable Livelihoods**

The CNP forcefully relocated Tharu, Bote, and Chepang without fair compensation for their lands. They were not provided with lands equal to that occupied in their traditional lands, and the quality of the lands was not that of what they had previously owned. They were converted

to landlessness or near landlessness with less freedom and autonomy of adopting customary living and lifestyles based on natural resources. Many of them were in poverty with vulnerable livelihoods. They have been compelled to adopt wage labouring and tenant farming without adequate support for the basic requirements of living.

Coercive eviction of Indigenous Peoples from their lands without any consultation and participation was against their fundamental human rights. It was a complete violation of ILO C 169 and UNDRIP, as the instruments affirm that they have the right to be consulted and participated in decision-making processes through their representative institutions. As envisaged by ILO C 169, the involuntary displacement was contrary to the right to ‘decide their own priorities’ (article 7). The coercive dislocation was also a violation of the provision of the Constitution of Nepal 2015 as it states, “no citizen shall be evicted from the residence owned by him or her nor shall his or her residence be infringed except by the law” (Article 37).

The Indigenous Peoples were under vulnerable livelihoods living on limited lands. They had no proper housing, which is against the provision of the Constitution of Nepal 2015 as it guarantees that “every citizen shall have the right to appropriate housing” (Article 37). To guarantee these fundamental rights, the government of Nepal has enacted the Right to Housing Act 2018, which stipulates the provision of ensuring appropriate housing for homeless citizens. Several international human rights frameworks have also guaranteed the right to housing with an adequate standard of living.<sup>54</sup> However, Indigenous Peoples were deprived of these basic human rights and compelled by Chitwan National Park (CNP) to live without security, peace, and dignity. The activities of the park authorities were in contradiction with the constitution and other national and international laws.

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54 Universal Declaration of Human Rights; International Covenant on Economic, Social and Cultural Rights; ILO Convention 169; UN Declaration on the Rights of Indigenous Peoples

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### 7.1 Conclusion

Indigenous Peoples in affected areas of DHR and CPN are under massive and multidimensional human rights violations. They were denied to exercise their pre-existing rights to lands, territories, and natural resources. This is confirmed by a study conducted by Amnesty International and Community Self-Reliance Centre (2021) among Tharu, Chepang, Bote, Darai Banariya, Danuwar, and Majhi highlights that ‘they have been facing ‘forced evictions; denial of rights to their ancestral lands; unjustified restrictions on access to the forests and natural resources on which they traditionally rely (hunting and gathering for subsistence); and amounting to a denial of access to food’ (p. 5). The report of LAHURNIP and NIWF (2020) stresses land dispossession and involuntary relocation of Indigenous Peoples (Tharu, Bote, Darai, and Kumal). The report highlights the loss of traditional livelihoods, fishing, boating, and detachment from sacred places. Thus, the park and the reserve have curtailed their freedom, autonomy, and right to self-determination. Eviction from their lands without compensation detached them from economic, cultural, linguistic, and religious/spiritual relationships with nature. Most of them are under landlessness or near landlessness with vulnerable livelihoods without proper housing and appropriate alternative means of living.

Militarization has further accelerated human rights violations, thereby criminalizing their customary lifeways. This has promoted intimidation, allegation, and detention among the Indigenous Peoples. This is also confirmed by the Report of the Independent Panel of Experts (2020), which highlights that the Indigenous Peoples have been facing allegations and detention in the protected areas. In addition, a study conducted by Amnesty International and Community Self-Reliance Centre (2021) confirms that they have been facing ‘arbitrary arrests, unlawful killings, detention, and torture or other ill-treatment by armies and other authorities’ (p.5). The focus of the report is on harassment and even rapes of



indigenous women. The report of LAHURNIP and NIWF (2020) also stresses the inhuman activities of armies and authorities on Indigenous Peoples, such as killings, death after alleged torture, allegation, and detention, and multiple forms of such as abuses against women such as sexual, verbal, and physical abuse, and harassment.

Contrary to this, the existing laws provide an opportunity to take a “Just Model of Conservation” that makes possible for zero tolerance against human rights violations, sustainability, respect of Indigenous Peoples’ rights, addressing injustices, promote biodiversity and development. The Preamble of the Constitution encapsulates the notion of peoples’ autonomy and self-governance rights.<sup>55</sup> The Constitution not only talks about protection and promotion and sustainable use of natural resources, but it also talks about intergenerational equity, equitable distribution of fruits, according to priority, and preferential right of the local community.<sup>56</sup> Article 56(5) talks about setting a protected or autonomous region for social, cultural protection, and economic development. Referring to article 51 (j)(8), Article 56(5), article 51(j)(9), and NFDIN Sec. 2, the Supreme Court of Nepal issued a directive order to establish protected, autonomous, or a special area to protect identity and culture of the Baram Indigenous Community.

Thus, in the spirit of the Constitution, the government has to make necessary laws for special, protected, and autonomous regions.<sup>57</sup> Article 29 of the UNDRIP articulates Indigenous Peoples’ right to conservation, and the state shall assist and cooperate in this regard. It can be understood as a model of Self-management of conservation in line with self-governance where the state facilitates respecting FPIC and the right to self-determination of the Indigenous Peoples. On the other hand, Article 15 of the ILO Convention 169 talks about participation in the use, management and conservation of resources. This may open the door for co-management

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55 1st paragraph of the preamble of the Constitution, 2015

56 Article 51(g)(1) of the Constitution of Nepal, 2015.

57 Bhuwan Baram and Tekbahadur Baramu vs. Prime Minister et. al. o74-WO-0239 (Supreme Court Division Bench)

of the conservation in the particular protected areas. The NPWC Act, 1973 encompasses the concept of Buffer Zone, which is claimed to be a participatory conservation model. However, this systematically excludes Indigenous Peoples as the Buffer Zone Management Committees (BZMCs) are unable to reach the most marginalized communities (Jana, 2007). The BZ management legal aspect has granted local participation, but the managerial structure largely remains top-down.

## 7.2 Key Recommendations

Based on the key findings and discussion of human rights violations of the affected Magar at DHR and Bote, Tharu, and Chepang at CNP areas, the following recommendations are made.

1. The government has to recognize that the Indigenous Peoples have pre-existing rights on their ancestral lands, territories, and natural resources. The national policy frameworks need to be amended considering Indigenous Peoples' inherent and inviolable rights recognized by the ILO C 169 and UNDRIP. In other words, the government has to respect the autonomy and right to self-determination in managing their lands, territories, and resources, including transhumant pastoralism.
2. Indigenous Peoples' right to self-management or co-management enshrined under the ILO Convention 169 and UNDRIP needs to be implemented to end ongoing conflicts between Indigenous Peoples and the Protected Areas to restore the concept of harmonious relationships between people and nature. In this regard, the NPWC Act, 1973, and associated regulations and policies need to be amended in line with the ILO C. 169, CBD, UNDRIP, and other international instruments to which Nepal is a party.
3. FPIC must be respected while introducing, amending, implementing, and reforming laws and policy, plans, programmes, and processes concerning the protected areas, including DHR and CNP.

4. Militarization at DHR and CNP has caused a lot of serious human rights violations, including insecurity, dignified right to life, fundamental freedoms of movement, speech, and acquiring basic livelihood requirements even from their statutory lands. Thus, the camps of the Nepal Army are to be ousted immediately. Moreover, it is critical to bring perpetrators of human rights violations instantaneously under legal prosecution in the civil court with the commission of independent investigation.
5. The government has to recognize and respect that Indigenous Peoples and the lands, territories, and resources have symbiotic relationships. The indigenous knowledge, customary laws (pre-existing rights), and practices associated with their lands, territories, and resources play a crucial “role in conserving the nature, food production, forestry development, medicine, sustainable practices, land and resource management and ecotourism, climate change, and disaster risk reduction” (Sultana et al., 2018, p. 18902). Irresponsive to the fact is the insensitiveness toward Sustainable Development Goals (SDGs) that envisage the intrinsic relationships of social, economic, and environment for sustainability.
6. The state has to respect that the Indigenous Peoples have cultural, spiritual/religious, economic, and linguistic relationships with the lands, territories, and natural resources. Thus, any form of forced eviction of Indigenous Peoples from their lands, territories, and natural resources snatches their identity and is inconsistent with Article 11 of the ICESCR, 1966 and relevant jurisprudences term this as an engraved human rights violation.
7. The state has failed to incorporate the basic human rights of Indigenous Peoples such as recognition, consultation, participation, FPIC, and right to self-determination in the laws and processes of management of DHR and CNP. Indigenous Peoples have been excluded in decision making *inter alia* in the deployment of armies and also in identifying planning and in the processes of the declaration

of the buffer zone at DHR. Disregarding the international human rights instruments, the FPIC was completely violated in the process of dislocating Bote, Tharu, and Chepang at CNP.

8. Indigenous Peoples in the affected areas of DHR and CNP were under landlessness and virtually landlessness. Most of them were in poverty with vulnerable livelihoods and homelessness. Thus, the state has to take immediate action to provide proper housing and enhance the livelihoods of those peoples, particularly in the case of Chepang. This historical land injustice is the core cause of the plight of Indigenous Peoples and the problems that need to be addressed at present by providing compensatory lands or alternative measures such as self-management or co-management as prescribed by the 23rd General Recommendation of CERD, Article 28 of the UNDRIP, Article 16.3 of the ILO Convention 169 and associated jurisprudence.
9. World Wide Fund for Nature (WWF) has technical support in the DHR buffer zone declaration process and management of the CNP. The memorandum of agreement between the Government of Nepal and WWF specifies the condition of respecting the rights of Indigenous Peoples. Instead, it has trained the authorities of the protected areas to criminalise indigenous customary living practices. Thus, it is essential to respect and implement the human rights of Indigenous Peoples at DHR and CNP effectively.
10. The WWF must comply with the recommendation of the Independent Panel of Experts of the Independent Review of allegations raised in the media regarding human rights violations in the context of WWF's conservation work (17 November 2020) and implement FPIC reforming the existing guidelines in meaningful consultation with the affected communities.
11. The state should establish an independent and competent mechanism with a clear jurisdiction to combat human rights violations against Indigenous Peoples in the protected areas.

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## Annex A: Participants in Talking Circle/Group Discussions

### *1. Dhorpatan Hunting Reserve Area*

S.N.	Participants	Address
1.	Purna Bahadur Gharti Magar	Bobang, Ward No. 5 of Taman Khola Village Municipality, Ba-glung).
2.	Sagar Gharti Magar	
3.	Chiran Gharti Magar	
4.	Khum Bahadur BK	
5.	Kewal BK	
6.	Salindra Gharti Magar	
7.	Tek Bahadur BK	
8.	Subash BK	
9.	Madan Pun Magar	
10.	Rudra Bahadur Gharti Magar	
11.	Man Bahadur BK	
12.	Rit Maya Gharti Magar	
13.	Kusan Gharti Magar	
14.	Tara Gharti Magar	
15.	Dil Buja Gharti Magar	



1.	Dal Prasad Budha Magar	Taksera, Putha Uttarganga Village Municipality, East Rukum
2.	Jibraj Gharti Magar	
3.	Amit Gharti Magar	
4.	Surendra Pun	
5.	Birman Pun	
6.	Deepak Budha Magar	
7.	Jita Ram BK	
8.	Indra Budha Magar	
9.	Jyoti Man Gurung	
10.	Prakash Pun Magar	
11.	Kaji Man Gharti Magar	
12.	Lokendra Budha Magar	
13.	Shaym Budha Mangar	
1.	Hira Bahadur Pun Magar	Bhulkot, Nishi Khola Village Municipality, Baglung
2.	Bishnu Bahadur Gharti Magar	
3.	Prakash Subedi	
4.	Manjusha Gharti Magar	
5.	Sanju Thapa	
6.	Bharat Gharti Magar	
7.	Khim Bahadur Gharti Magar	
8.	Surya Bahadur Gharti Magar	
9.	Amita Budha Magar	
10.	Tara Nath Poudel	
11.	Harka Man Gharti Magar	
12.	Lila Mani Upadhyaya	
13.	Dhurta Gharti Magar	
14.	Jit Kumari Gharti Magar	

## 2. Chitwan National Park Area

S.N.	Participants	Address
1.	Deepak Bote	Kawasoti Municipality, Baghkhori village
2.	Amar Bote	
3.	Bhim Bahadur Bote	
4.	Baliram Bote	
5.	Laxman Bote	
6.	Narayan Bote	
7.	Gyan Bahadur Bote	
8.	Jagawa Bote	
9.	Bagmati Bote	
1.	Durga Bote	Madhyabindu Municipality, Kolwa
2.	Chandra Dev Gurau	
3.	Gallu Bote	
4.	Santa Kumar Chaudhary	
5.	Dhani Ram Mahato	
6.	Hari Narayan Chaudhary	

1.	Jaali Maya Chepang	Madi Municipality, Parui river
2.	Sarita Chepang	
3.	Mamita Chepang	
4.	Sanjita Chepang	
5.	Dhana Maya Chepang	
6.	Salpana Chepang	
7.	Phul Maya Chepang	
8.	Santi Maya Chepang	
9.	Budhdhi Maya Chepang	
10.	Arati Chepang	
1.	Jit Bahadur Chaudhary	Kalika Municipality, New Padampur
2.	Ram Man Chaudhary	
3.	Himal Tharu	
4.	Jagat Narayan Chaudhary	
5.	Niti Chaudhary	
6.	Kamal Chaudhary	
7.	Hari Narayan Chaudhary	
8.	Sita Chaudhary	
9.	Rim Chaudhary	
10.	Seetal Chaudhary	
11.	Phul Maya Chaudhary	
12.	Dal Bahadur Chaudhary	

## Annex B: Toponyms Alpine and Lower Valley Rangelands

Alpine and Lower Valley Rangelands and Types of Livestock Keeping in Different Districts

Block Name	Name of Rangelands	Livestock	Districts
<i>Surtibang</i>	<i>Balegri, Surtibang, Bayali, Thari, Khalikhola, Chuha, Mahabhas, Chauribuki, Mani, Marpes, Hile, Dum, Nepane, Patalethari, Pokhara, Jurgun, Barulakharka, Simpani, Mulkharka, Kalidhand, Lasunban, Marpani Deurali, Ratamata, Pangrsbsn</i>	Sheep and Goats	Dolpa, Rukum, Baglung
<i>Barse</i>	<i>Gurjaghat, Shivaodhar, Rughachaur, Naulakhola, Kharbayali, Nimthala, Thalkharka, Thulomela, Lammela, Surkemela, Dayamela, Dallejur, Sasamul, Chokte, Dhuka, Sechun, Phaliyaghar, Simthari</i>	Mules and Horses	Myagdi and Baglung
<i>Fagune</i>	<i>Tikethara, Rajban, Dahakharka, Khubribanlasune, Chaundul, Ratabhir, Phurse, Kiteni, Fagune, Satban or Murchula, Kholathari, Thangur, Shimkharka, Jalaapa, Bhedachaur, Lamdanda, Mandi, Ripa, Kanspur Bhimpa, Niseldhor, Nebhang, Daha, Majhdhara, Rithekharka, Karichaur, Paleti, Hanirahulo, Tarabang, Pattigaira, Ranikharka, Nursing Buki, Lasune, Drubathari, Ghakalibang, Dotho, Dharkharka, Jauleghati, Jaulebisauna, Chamale, Thalkharka</i>	Sheep, Goats, Mules, Horses	Rukum, Rolpa, Baglung

<i>Ghustang</i>	<i>Mansungmela, Naure, Chaluke, Parvimarvi, Nayaban, Newabang, Hinggoi, Kayamdanda</i>	Buffalos, Sheep, Goats, Cows, Mules	Myagdi and Baglung
<i>Dogadi</i>	<i>Wollochalike, Pallochalike, Puthaban, Tiser, Lamsar</i>	Sheep and Goats	Rolpa, Rukum and Baglung
<i>Seng</i>	<i>Pupal, Ghurang, Purbang, Panidhai, Naure, Jangalapas, Bhedacharan, Nautale, Darlanwa, Tallosim, Upallosing, Ngangabas, Dule, Khani</i>	Mules, Horses, Sheep, Goats	Dolpa and Rukum
<i>Sundaha</i>	<i>Ankhe, Pape, Daple, Chaurikharka, Kultabhanjyang</i>	Sheep, Goats, and Buffalos	Rukum

*Source: Field Information and Status Paper (Kandel, 2000)*

