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Indigenous Peoples'
experiences of autonomy
and self-determination
in Nepal



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Cover photograph and above: Indigenous Tharu celebrating Bakheri. Credit: Signe Leth / IWGIA

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Acronyms and Abbreviations

- FPIC** – Free, Prior and Informed Consent
- ICCPR** – International Covenant on Civil and Political Rights
- ICESCR** – International Covenant on Economic, Social and Cultural Rights
- ILO** – International Labour Organization
- INGO** – International Non-Governmental Organization
- IPHRDs** – Indigenous Peoples' Human Right Defenders
- IWGIA** – International Work Group for Indigenous Affairs
- LAHURNIP** – Lawyers' Association for Human Rights of Nepalese Indigenous Peoples
- NGO** – Non-Governmental Organization
- UNDRIP** – United Nations Declaration on the Rights of Indigenous Peoples



Prayer wheels at Adhinath Lokeshwar Temple.
CREDIT: Signe Leth / IWGIA

I. Introduction

The purpose of this study is to investigate the experiences Indigenous Peoples in Nepal have of asserting autonomy, and their struggle to ensure their right to self-determination. This report includes a specific focus on the work of LAHURNIP, which offers support to Indigenous Peoples in their struggle to achieve autonomy and self-determination.

Indigenous Peoples' right to self-determination, autonomy and self-government is recognized in international law in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The instruments to achieve this, such as Free, Prior and Informed Consent (FPIC), and participation in decision-making, are both set out in this declaration, and in ILO Convention 169 on the Rights of Indigenous Peoples and Tribal Populations.¹ Indigenous Peoples' right to self-determination involves their right to govern themselves, their ancestral land and territories, as well as the resources within them, their right to cultural integrity, to pursue their own development and, at the same time, the right to be part of decision-making in the country in which they live.² Nepal is party to ILO Convention 169 and voted for the UNDRIP but, according to the Indigenous Peoples' movement, their implementation is lacking.

Nepal was federalized through the 2015 Constitution. Although most of the Indigenous Peoples' input to the Constitution and their visions for the federal structure were ignored in the end, there are some small opportunities in national legislation that can be used by Indigenous Peoples to take further steps towards realizing, to some extent, their right to autonomy. The delegation of power to local governments, in particular, offers space for Indigenous Peoples to advance in their work of seeing their rights fulfilled. Some Indigenous communities have already been able to obtain levels of autonomy in certain areas through local governments.

The report's first section establishes the meaning of self-determination, autonomy, and customary self-governing systems. The second describes the Indigenous Peoples in Nepal, followed by an analysis of the opportunities for autonomy within the legislation, including the work done by LAHURNIP to this end. The last two sections of the report offer two case studies from Indigenous communities in Nepal that have achieved some degree of autonomy by using the legislation. Lastly, final reflections and recommendations from the experiences of the communities and the work of LAHURNIP are presented.

A. Methodology

This study is based on qualitative research methods. First, a literature review was conducted looking into background knowledge on Indigenous Peoples in Nepal, as well as existing conceptualizations of self-determination, autonomy, and customary self-governance systems for Indigenous Peoples. For the conceptualization, literature from Nepal and from other parts of Asia and the world were used to define how the rights of Indigenous Peoples to self-determination, autonomy, and customary self-governance are interpreted. The report relies mainly on earlier publications by IWGIA but also on literature from other Indigenous Peoples' organizations, reports from the UN, and academic articles on the topic.

Semi-structured interviews were carried out with two LAHURNIP secretariat members and one of its board members. These were used to gain further insight into the situation of Indigenous Peoples in Nepal, as well as to obtain their analysis of the legal and political opportunities in the country. Information from LAHURNIP was also accessed through internal project documents from their 2020-2023 project with IWGIA.

Finally, the case studies included are based on field visits in Gulariya-Bardiya district, Kirtipur, Kathmandu district and Biratnagar, Morang district. In all three places, meetings were held with community leaders and members. In Kirtipur, the meeting took the form of a semi-structured interview with two main interlocutors, while in Gulariya and Biratnagar, community members shared their knowledge and experience with only little time for follow-up questions. In Kirtipur, the visit included a tour of the community to see the different clusters of the Kirtipur cultural protected area. The visit to Bardiya district included a visit to a community and participation in their yearly assembly, providing insight into how this important customary institutional event takes place in practice. The limitations of the data collection were the language barrier and time constraints. To account for these limitations, LAHURNIP assisted in fact-checking prior to publication.



II. Self-determination, autonomy, and customary self-governance systems

A. Self-determination

The right to self-determination is a fundamental principle in international law and is derived from the International Covenant on Civil and Political Rights (ICCPR),³ the International Covenant on Economic, Social, and Cultural Rights (ICESCR),⁴ Article 1 of ILO Convention 169, and the UNDRIP. The UNDRIP is of special importance to Indigenous Peoples and the right to self-determination is specifically laid out in Articles 3, 4, and 5 of the declaration. Article 3 states: “Indigenous Peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development”.⁵ The right to self-determination is grounded in freedom and equality and it means that Indigenous Peoples are free to choose

for themselves, to establish their own law and governing institutions,⁶ and it entails freedom from discrimination. It gives them the right to live according to their own values and beliefs, and to pursue their own development on their customary territories, in line with their culture.⁷ This right is also expressed through Indigenous Peoples’ exercise of control over their lives by participating in all decision-making that may directly or indirectly affect them.⁸ Self-determination represents the protection of Indigenous Peoples’ political authority, cultural integrity, and economic security. Some of the mechanisms through which self-determination can be practised include autonomy, self-government, self-management, recognition and maintenance of traditional political decision-making bodies and legal systems, full and effective participation of public life, and FPIC.

UNDRIP and FPIC

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted on 13 September 2007 by the UN General Assembly. The declaration had been in the works for over two decades. It is an elaborate human rights instrument covering many areas of Indigenous Peoples’ rights such as: the right to self-determination, the right to land, territories and resources, FPIC, the right to self-determined development, culture and cultural heritage, education, and health.⁹

Free, prior, and informed consent (FPIC) is an instrument to ensure Indigenous Peoples are heard and that their rights are being respected in the planning of projects affecting them. According to the UNDRIP, Indigenous Peoples have the right to FPIC on any project being implemented that affects them, their land, territories, and resources.¹⁰ This includes actions resulting in the forced removal or relocation of Indigenous Peoples, the adoption or implementation of legislative or administrative measures, any project affecting their lands, territories, and other resources, particularly in connection with the development, utilization or exploitation of minerals, water or other resources, and storage or disposal of hazardous materials in the lands or territories of Indigenous Peoples.¹¹

1. Free, prior, and informed consent (FPIC)

The right of Indigenous Peoples to FPIC is guaranteed in the UNDRIP and ILO Convention 169. FPIC is especially important for Indigenous Peoples’ relationship to the state.¹² Both historically and today, Indigenous Peoples are challenged in their negotiating position with the state in which they find their territory, among

other things because of the undermining of their decision-making institutions brought about by colonialism, and the dispossession of land and relocation their communities have faced and continue to face.¹³ The right to FPIC is a recognition of Indigenous Peoples’ right to control over their own lands, territories, and resources and right to say “yes” or “no” to projects affecting these.¹⁴ FPIC is, as such, grounded in the right to self-determination as a manifestation of

Indigenous Peoples' inherent power to make binding agreements between themselves and other polities.¹⁵ This right is also grounded in the international framework for non-discrimination as it seeks to dismantle the disempowering and dispossessing structures that Indigenous Peoples face.¹⁶

FPIC entails both securing Indigenous Peoples' full participation in public life and decision-making processes and revitalizing and restoring Indigenous Peoples' own customary governance institutions. That the consent should be "free" connotes freedom from intimidation, coercion, manipulation, and harassment, that Indigenous Peoples have the freedom to be represented according to their own laws and customs, that they have the freedom to guide and direct the process, and that the process should be free from suspicion, accusations, threats, criminalization, and violence towards Indigenous Peoples.¹⁷ "Prior" sets the requirement that Indigenous Peoples should be involved in the process as early as possible, meaning in the conceptualization and design phase, before any decision is made, and that they are provided with the necessary time to understand and analyse the information as well as time to undertake their own decision-making process.¹⁸ The consent should be "informed", meaning that substantive, accurate and clear information should be made available and presented in a manner and form that is understandable to Indigenous Peoples, and with translation into a language they can understand.¹⁹ Consent for proposals can only be given if it meets these three requirements, and consent needs to be explicit.²⁰ Indigenous Peoples should be able to withhold their consent, and consequently stop the project from proceeding; they should be able to seek adjustments and amendments or propose alternatives to the project.

If done according to its prescriptions, FPIC is a mechanism that regulates the relations between Indigenous Peoples and the state and fulfils the Indigenous Peoples' right to self-determination. It seeks to overcome the discriminatory structures that have dispossessed and disempowered Indigenous Peoples by securing their right to make decisions over their own land, territories, and resources through their own decision-making institutions and ensures that they have all the information they need to make such decisions.



Indigenous Peoples of Nepal gather in a huge protest to defend the Indigenous Guthi system of the Newa people in 2019. CREDIT: Signe Leth

B. Autonomy and self-government

Autonomy and self-government are key instruments in implementing the right to self-determination. While there is no general definition of autonomy in international law, it is clearly stated as a right of Indigenous Peoples in UNDRIP Article 4 in relation to self-determination: "Indigenous Peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions."²¹

Indigenous Peoples' practices of autonomy and autonomous systems may include different dimensions and take different forms. Autonomy has both an internal dimension covering the right to exercise self-governance within the boundaries of the autonomous territory, and an external dimension referring to the right to exercise autonomy on issues such as security, geopolitics, diplomatic representation, and other external affairs.²² While the former is given much attention, the latter is also of importance to Indigenous Peoples as global markets or international political decisions also affect their right to collective ownership and cultural heritage.²³ An autonomous system can include autonomy over language, culture, education, territory, political autonomy, and economic autonomy.²⁴ For Indigenous Peoples, territorial autonomy is crucial because it entails respect, recognition, and demarcation of a community's own territory within which autonomy can be practised.²⁵ It is important here to consider whether there is differ-

entiation between surface and subsurface rights and whether the land can be mortgaged, sold, or handed over to others.²⁶ The right to access and hold control over natural resources within the territory is significant for Indigenous Peoples' exercise of autonomy and must therefore be included in the full realization of territorial autonomy.²⁷ Another fundamental aspect of autonomy for Indigenous Peoples is political autonomy which, for Indigenous Peoples, generally involves practising their customary law and governance systems.²⁸

Autonomies must be built from the ground up. This requires an agreement among the Indigenous Peoples themselves on how the autonomy should look and that the communities themselves are the ones creating a draft for their model of autonomy.²⁹ Experiences show that autonomy for Indigenous Peoples cannot be fully realized if it is approached as a bureaucratic and administrative matter; a comprehensive approach in line with the customary systems is instead needed.³⁰

One example of this difference can be found in the Philippines, where two different efforts for regional autonomy for the Cordillera are being undertaken: one by the government and one by the Cordillera Peoples Alliance (CPA).³¹ The government's perspective has been one of bureaucracy, administration, and form, setting up regional structures, budget allocation and administrative mechanisms but, ultimately, lacking in principle and substance in terms of securing genuine democratic rights and regional autonomy.³² On the other hand, the Indigenous movement-based organization CPA is working for comprehensive rights and towards the long-term goal of securing full compliance with the substance and features of self-determination.³³ Even though the quest for genuine autonomy is not done with the stroke of a pen and requires that it be built from the grassroots up, it is what the Cordillera Indigenous Peoples' movement sees as the only way to achieve true regional autonomy.³⁴

A comprehensive approach to autonomy should include Indigenous conceptions of territory, government, law, rights, and relations, as well as a definition of the relations and divisions of authorities between the state and the autonomous group.³⁵ A report by the UN Special Rapporteur on the rights of Indigenous Peoples from 2019 also concludes that, when autonomy is imposed by the state, it does not ensure the fulfilment of Indigenous Peoples' right to self-determination, and it ends up as a fragmented autonomy.³⁶

Another aspect to consider in the establishment of Indigenous autonomy is the financing of autonomous functions. One question in this regard is whether Indigenous communities have access to resources within the territory or if, as is sometimes the case, land dispossession, conservation areas and commercial ventures have rendered them dependent on external support.³⁷ In any case, Indigenous Peoples' right to a means of financing their autonomous functions is stated in UNDRIP Articles 4 and 39.³⁸

Much of the opposition to and challenges facing Indigenous autonomies in Asia is based on the assumption that the call for autonomy includes a threat of secession that would destabilize the territorial integrity and sovereignty of the state.³⁹ This is a misconception, however, as autonomies can occur within the sovereignty of the state as a way of making room for the political, social and cultural pluralism within it.⁴⁰

C. Customary self-government systems

The customary self-government systems of Indigenous Peoples are the spiritual, religious, social, cultural, political, and judicial systems governed by their customary laws, institutions, and organizations.⁴¹ Customary law covers all parts of everyday life, such as family, marriage, spiritual and religious rituals, ownership, use of or access to land and natural resources, and judicial administration.⁴² These systems have long existed as a way for Indigenous communities to practise democratic governance but have been challenged by colonization and the introduction of other governance structures.⁴³ These new forms of governance threatening Indigenous customary self-governance systems include, for instance, monarchies and liberal democracies. Through either central or federal governments, these have introduced various positions and administrative structures parallel to, and often interfering with, the function of Indigenous customary systems. Customary self-governance systems are essential for Indigenous Peoples' ability to exercise their right to autonomy as they form part of the cultural identity of the community, and they constitute the expression of the right to self-determination.⁴⁴ It is therefore important that these are activated, strengthened, and recognized for the establishment of Indigenous autonomy and the realization of their right to self-determination.⁴⁵



III. Indigenous Peoples in Nepal

Nepal is home to a large number of Indigenous groups living throughout the country from the Thakali and Sherpas in the Mountains, the Tamang and Newar residing in the Hilly Region, to the Tharu and Santhal in the Terai, to name but a few.⁴⁶ According to the 2011 national census, they comprise 36% of Nepal's population although Indigenous Peoples' own organizations claim that more than half of the population is Indigenous.⁴⁷ The Government of Nepal recognizes 59 of the Indigenous groups,⁴⁸ with 19 more identified in the 2021 census but yet to be formally recognised.⁴⁹ Numerous other groups who self-identify as Indigenous are not yet recognized, however.

Historically, Indigenous Peoples in Nepal have been discriminated against under the Hindu caste system and hierarchy.⁵⁰ In the 18th century, Nepal was declared a Hindu kingdom by its ruler of the time,⁵¹ and Indigenous Peoples were placed in a hierarchy (caste)⁵² system that they neither practised nor believed in. They were placed in the caste system as "Matwalis" (the liquor drinking caste) and further divided into two categories of "non-enslaveable liquor drinkers" and "enslaveable liquor drinkers" whose duties are to serve the higher castes.⁵³ Although it is now illegal to discriminate on the basis of caste, the system is still prevalent. The privileging of Hinduism has promoted the criminalization of Indigenous cul-

ture. It has, for instance, led to Indigenous Peoples being imprisoned for slaughtering cows as part of their traditional religious rituals.⁵⁴ Several provisions in the Constitution are either directly against or discriminatory towards Indigenous Peoples while others reproduce Brahminism, enforcing the supremacy of the Bahun and Chettri castes.⁵⁵ As such, Indigenous Peoples continue to face racism, discrimination and marginalization.⁵⁶ Further, the composition of the parliament, government and judiciary demonstrates heavy over-representation of the two dominant castes.⁵⁷ There is a long history of Indigenous Peoples' struggle and resistance against racism, exclusion and discrimination in Nepal.

Non-recognition of Indigenous Peoples' rights to land, territories and resources and self-determination, the criminalization of customary forms of land and natural resource use, land dispossession, forced eviction, militarization, and land grabbing in the context of conservation, development and business activities are the main problems faced by the Indigenous Peoples of Nepal. Such problems are causing adverse impacts on their livelihoods, culture, belief systems, identity, customary laws and tenure system, and environment and are threatening their customary self-government systems and rights to self-determination.

The history of rule and government in Nepal

In 1768, Prithvi Narayan Shah conquered large parts of the territory today known as Nepal and declared it a unified state.⁵⁸ During the next almost 100 years, Nepal was under the Shah monarchy, until 1846 when the Ranas carried out a coup and became the de facto rulers. The autocratic Rana rule lasted until 1951 when the Peoples Movement overthrew it and established a multiparty democracy with a constitutional monarchy.⁵⁹ This was short-lived, however, and was overturned by King Mahendra, who subsequently established an autocratic no-party Panchayat system under an absolute monarchy.⁶⁰ In 1990, the Peoples Movement restored the multiparty democracy and parliamentary system.⁶¹ This lasted until 1996 when the Communist Party of Nepal-Maoists (CPN-Maoists) declared "the peoples war" in opposition to the Hindu hegemony⁶² and its failure to meet the aspirations of the multicultural people of the country.⁶³ The Maoist insurgency lasted from 1996 to 2006.⁶⁴ In 2007, CPN-Maoists and other parties reached an agreement on an interim constitution and the first Constituent Assembly was elected in 2008.⁶⁵ In the same year, the Assembly voted to abolish the monarchy once and for all.⁶⁶ The Second Constituent Assembly was elected in 2011⁶⁷ and, in 2015, a new Constitution was passed despite strong opposition from the Madhesi and Indigenous Peoples' movement.⁶⁸

A. A new constitution

After years of internal conflict, due to the Maoist insurgency, Nepal adopted a new constitution in 2015. Despite advocacy from Indigenous Peoples and Indigenous Peoples' organizations throughout the drafting process, the 2015 Constitution does not grant Indigenous Peoples the rights they are entitled to according to international law.⁶⁹

Several criticisms of the Constitution have been made by Indigenous Peoples, including that it has failed to recognize their collective rights to lands, territories and resources, their right to FPIC, as well their right to self-determination.⁷⁰ Other criticisms pertain to the fact that the Constitution characterizes Nepal as a monocultural nation-state and gives special status to Hinduism.⁷¹ While the Constitution does declare Nepal a secular state, the result of advocacy from Indigenous and other non-Hindu groups, secularism still prioritizes and ensures the protection of the Hindu religion, as the Constitutional article defines secularism as *"religious, cultural freedoms, including protection of religion"*⁷² and culture handed down from time immemorial" and, in this regard, "religion and culture handed down from time immemorial" refers specifically to Hinduism.⁷³

Another important critique of the new Constitution is of the state structure, which was changed from a

unitary structure to a federal one. Conversely, Indigenous Peoples fought to make the new state structure identity-based.⁷⁴ The first Constitutional Assembly did agree to have identity as the primary basis for the restructure but was not able to pass a new constitution during its tenure.⁷⁵ The second Constituent Assembly did not build upon this agreement and the main political parties betrayed the wishes of the Indigenous community and adopted the 2015 Constitution establishing administrative federalism as the new state structure.⁷⁶

This federal structure merges the historical customary lands of different Indigenous Peoples and, as part of the new state formation, districts are named according to the ruling caste groups, which neglects the identity and history of Indigenous Peoples.⁷⁷ In the Eastern part of Nepal, Indigenous Peoples have organized themselves into a movement protesting the naming of province number 1 as "Koshi", a Hindu name that does not recognize the history of the territory, which is the traditional land of various Indigenous groups.⁷⁸ They are instead advocating for the name "Pallo Kirat Limbuwan", which reflects the history and culture of the Indigenous Peoples who live there and who have been there since time immemorial.⁷⁹ While the movement is peaceful and non-violent, the state of Nepal has concentrated security forces there to suppress the movement, resulting in injuries to several protesters.⁸⁰



The Indigenous Bankaria community was evicted from their land which is now a national park and resettled here. CREDIT: Signe Leth

B. Threats to Indigenous Peoples' lands

Indigenous Peoples in Nepal experience multiple violations of their rights to lands, territories, and resources, often as a result of government plans for economic growth, carried out in the name of development.⁸¹ These “development” plans include hydropower and infrastructure projects, which are highly emphasized in the Government of Nepal’s 15th five-year plan running from 2019-2024, as well as conservation projects.⁸²

Almost one-quarter (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. The protected areas extend to the ancestral lands of different Indigenous Peoples, from lowland Terai to the high mountains.⁸³ Many Indigenous Peoples, who have been living in these areas from time immemorial, have already been displaced and lost their livelihoods, cultural and spiritual practices connected to the lands, and food security.⁸⁴

The Kunming-Montreal Global Biodiversity Framework (GBF), adopted at the UN Biodiversity Conference COP 15 in December 2022, aims to support the Sustainable Development Goals (SDGs) and meet the global vision of a world living in harmony with nature by 2050. The parties are committed to setting national targets to implement it. The GBF lays out a plan for effective conservation and management of 30 percent of the land, 30 percent of inland waters and 30 percent of oceans by 2030, popularly known as the 30X30 target.

The Government of Nepal claims they already have approximately 24 percent of the land protected. The government has the intention to expand existing protected areas and community forests to meet the national target.⁸⁵ In Dubai COP 28, held in December 2023, Nepal likewise committed to achieving net zero greenhouse gas emissions and fully utilizing hydropower potential to secure clean energy and maintain 45 percent forest-covered land by 2045.⁸⁶ This new development of the environment conservation approach may lead to massive land grabbing and forced eviction of Indigenous Peoples from their traditional lands.

Most of the so-called development projects have resulted in dire consequences for Indigenous Peoples. Infrastructure development projects result in the displacement and forced eviction of Indigenous Peoples due to home demolitions and loss of heritage caused by the destruction of cultural and sacred sites. One example of the consequences of infrastructure development projects is the road expansion in Kathmandu Valley announced by the authorities in 2011-12, which is affecting Indigenous communities.⁸⁷ It is estimated that the widening of the road will result in the displacement of approximately 150,000 people, a majority of whom are Newar.⁸⁸ Since 2016, when the affected communities first began to feel the consequences of the project, they have carried out protests against the road expansion project and, with the help of LAHURNIP, filed public litigation in the Supreme Court. These efforts led to a Supreme Court ruling for an interim injunction prohibiting the demolitions and, in 2017, a further ruling stating that the government should put a stop to the displacement of people in the name of the road expansion project.⁸⁹ This has stalled the construction to a degree but the court decision still needs to be implemented fully.

Hydropower projects, which include the building of dams and establishment of power transmission lines, if established forcefully and without the FPIC of Indigenous Peoples, have massive, negative consequences for land, livelihoods and the environment, leading to the displacement and loss of lands for Indigenous Peoples. The building of dams and tunnels causes the destruction of human settlements; tunnel work causes water resources used for drinking and irrigation for farmlands to disappear, while transmission lines pose health and safety risks for the communities living close by due to high voltage transmissions. Examples of these activities affecting Indigenous Peoples include a hydropower dam in Bhoipur district, the Marshyandi Corridor transmission line, and the Tamakoshi to Kathmandu 200/400 kV Transmission Line project.⁹⁰ This last project, in particular, has affected Indigenous Tamang and other locals in Shankarapur municipality by, among other things, placing a substation in the middle of a human settlement, running over houses, lands, and sacred sites.⁹¹

Finally, conservation areas such as national parks are restricting communities from entering their traditional lands and territories and limiting their access to resources, all of which impacts on their socio-economic

and cultural rights, including self-determination. One such conservation area is the Dhorpatan Hunting Reserve located in Dhaulagiri Mountains in western Nepal, which covers the territories of the Magar, Gurung, Chantyal and Thakali Indigenous Peoples.⁹² Indigenous Peoples' rights to land, territories and resources have been violated by the hunting reserve since its establishment in 1987. Another example is Chitwan National Park, established in 1973, where Indigenous groups such as the Tharu, Bote and Chepang have been dispossessed and evicted from their ancestral land; their livelihoods, which have always depended on the forest and river, have been criminalized, and human rights violations and violence in the name of conservation against people from these communi-

ties have been reported.⁹³ The loss of land and livelihoods and the human rights violations in these areas threaten the traditional institutions and governance systems of the Indigenous Peoples and, with that, comes a loss of Indigenous knowledge, culture and religion.

Adding to the impact on lands, livelihoods, and environment, all the examples of "development" projects have violated the Indigenous Peoples' right to FPIC. The projects have also been criticized for lacking any consultation, information, or agreement with the affected Indigenous Peoples in their planning, as well as having inadequate compensation schemes and benefit-sharing.



Indigenous Tharu celebrate Bakheri. CREDIT: Signe Leth

C. Opportunities for self-determination

Even with the many challenges Indigenous Peoples face, LAHURNIP has identified possibilities for promoting Indigenous autonomy within the legal framework. The biggest opportunity for achieving self-de-

termination and autonomy for Indigenous Peoples is the international law Nepal is party to,⁹⁴ including the UNDRIP and ILO Convention 169. Such international instruments help guide and secure the rights of Indigenous Peoples. For example, following massive efforts and advocacy in connection with the review of Nepal by the UN Committee on the Elimination of Discrimination Against Women (CEDAW), in its Con-

cluding Observation and Recommendations of 14 November 2018, the Committee made the following recommendation: “41a. (a) Amend the Constitution to explicitly recognize the rights of indigenous women, in particular their right to self-determination, in line with the United Nations Declaration on the Rights of Indigenous Peoples.” Furthermore, the Human Rights and International Treaty Agreement Division of the Office of the Prime Minister and Council of Ministers released the 5th National Action Plan on Human Rights (FY 2021/22-2024/25) on 2 December 2021, wherein it stated that they intend “to review or reform existing laws, legislate new laws as needed relating to Indigenous Nationalities, and to implement conventions to which Nepal is a party”.

These are not being implemented in any substantial sense, however, and they are not being fully integrated into national legislation. While international laws are still central to the Indigenous Peoples’ movement, national legislation also holds some opportunities for increasing the autonomy of Indigenous Peoples in Nepal. These possibilities are nonetheless not a given and depend on the interpretation of the law which, either way, is not enough to secure autonomy to its full extent but represents more of an opportunity to take a step in the right direction.

Despite the heavy criticism of the Constitution offered by Indigenous Peoples, there is language in it which holds some opportunities for them to move towards self-determination. The preamble to the Constitution states: “*INTERNALIZING the people’s sovereign right and right to autonomy and self-rule, while maintaining the freedom, sovereignty, territorial integrity, national unity, independence and dignity of Nepal*”.⁹⁵ Although this refers to all the people of Nepal, it can be interpreted as Indigenous Peoples having the right to self-determination.⁹⁶ The Constitution further ensures the rights to culture and religion and their protection,⁹⁷ although Hinduism is given special status. Articles 51(b)(3) and 51(j)(8) of the Constitution of Nepal 2015 commit to implementing the international treaties and agreements to which Nepal is a state party, and to ensuring the Indigenous right to a dignified life, identity, and participation in decision-making processes that concern them.⁹⁸

Another section that offers opportunities for promoting Indigenous Peoples’ rights is Article 51(g) on *policies relating to Protection, Promotion and Use of*

Natural Resources, which asserts the government’s obligation to pursue “*the principle of prior informed consent*”.⁹⁹ Although this does not explicitly mention Indigenous Peoples, it could open a door to implementing the right to FPIC, at least regarding the environment.¹⁰⁰ Finally, Article 56(5) of the Constitution states that “*any Special, Protected or Autonomous Region can be established under the federal law for social, cultural protection or economic development*”.¹⁰¹ This holds the potential for realizing the autonomy and self-determination of Indigenous Peoples although implementation of this article is still awaiting finalization of the bill specifying how to establish the special, protected or autonomous regions.

The Local Government Operation Act 2017 – a federal law that stipulates the role, power, and responsibilities of local governments within the new federal structure of the 2015 Constitution – has given power to local governments over socio-economic issues, cultural development and environmental protection within their areas. Section 99 of the Act builds upon constitutional Article 56(5), which states that the Government of Nepal can establish any area as a special, protected, or autonomous region in consultation with the provincial government, for the purposes of socio-cultural protection and economic development.¹⁰² According to this section, status can be given to areas with marginalized communities where the majority are below the national poverty line and which are populated by one or more linguistic, ethnic and cultural minority group(s). Even with this further specification of Article 56(5) in the Local Government Operation Act, the federal parliament still needs to bring a separate federal law, in consultation with the provincial government, to establish how these special, protected, and autonomous regions will be implemented in practice.¹⁰³ Nevertheless, using this existing legislation, LAHURNIP filed a case with the Supreme Court that led to the court issuing a Directive Order in December 2018 to the Government of Nepal to establish autonomy for the Baram Indigenous Peoples with reference to the Constitution and the Local Government Operation Act.¹⁰⁴ Nothing, however, has happened since.

Existing laws do not provide a clear picture of the extent to which autonomy can be ensured. It depends on the pressure Indigenous Peoples can place on the federal government to include the maximum extent of autonomy while legislating the related federal law.

These legal provisions and the court order do, however, open some doors for recognition of Indigenous Peoples' ancestral lands and for the communities to exercise their right to self-determination on socio-economic and cultural issues.¹⁰⁵

Section 9(3) of the Local Government Operation Act has given power to local governments to declare specific areas as cultural protected areas.¹⁰⁶ This can be used to give Indigenous communities the right to exercise, protect and develop their own culture and tradition. Through this legislation, communities can gain some degree of autonomy, although it depends on the specific act put in place by the local government when declaring territory as a cultural protected area, and aspects of autonomy, such as over territory, economic autonomy and political autonomy, are not directly included. While communities can argue that a cultural protected area should include the right to practise their self-governance systems and the protection of sacred sites, it is not specified in the law what "*culture*" encompasses and can therefore also be interpreted more narrowly. It is thus a question of negotiating the specific legislation put in place in each instance to secure the widest possible autonomy for Indigenous Peoples.

To summarize: within Nepal's legal framework there are specific articles that provide space for the protection of collective rights to Indigenous lands, to some degree. These include:

- According to Article 56(5) of the Constitution of Nepal, 2015: "(5) Any Special, Protected or Autonomous Region can be set by the Federal law for social, cultural protection or economic development." The Supreme Court of Nepal issued a Directive Order (o74-WO-0239) to the government on 31 December 2018 to table laws for the meaningful implementation of this Constitutional provision.
- The 2015 Constitution of Nepal gives local government the power to pass laws and policies for the protection of biodiversity, within their jurisdiction (Art. 57.4, Art. 214.2, Art. 221.2 Art. 226.1, and Schedule 8 No. 10). Some municipalities and rural municipalities have enacted laws that recognize Indigenous models of conservation practised since time immemorial and which help to enrich biodiversity and cope with climate change impacts and adaptation.

- The National Forest Policy 2019 states that forest areas that have been traditionally protected by a local community will be recognized as community-protected areas. The Land Policy Act 2019 of the Government of Nepal is committed to protecting land that has collectively been used since ancient times by the communities and gives responsibility to the local government to keep records of lands that have been traditionally used by the community.
- The Local Government Operation Act 2017 mandates local governments to keep records and manage public and communities' property and pastureland and protect the biodiversity and environment, which has provided a small opportunity to transfer management resource rights to Indigenous Peoples.
- The directive regarding limitations of land ownership, 2074 BS states: "Land needs to be managed with the free consent and right to information in the case of land concerning to the local indigenous peoples'[sic] cultural tradition land use".¹⁰⁷
- The Land Revenue Act of 1978/2017 provides a definition of "community land" as held by communities for their own use.

Even with the opportunities that some of these laws hold to secure the land rights of Indigenous Peoples, the UN Committee on the Elimination of Racial Discrimination is concerned by the absence of laws guaranteeing the rights of Indigenous Peoples to own and develop their traditional lands and resources.¹⁰⁸ There is also a need to develop a strong community movement to secure the land rights as envisioned by ILO-169 and UNDRIP.¹⁰⁹

While there are laws in place that can help to ensure more autonomy and self-determination for Indigenous Peoples in Nepal, LAHURNIP still sees that the most important task in achieving these goals as organizing the communities.¹¹⁰ It is important that, before the creation of laws, the communities revitalize their customary self-governance systems. This is the way communities can practise their autonomy, demonstrating a clear system in practice to ensure that laws can actually fulfil the promise of self-determination, and legally allow for a parallel system of administration that is protected.



D. Laws in practice

No area of Nepal has yet to receive the status of special, protected, or autonomous region, even though Indigenous Peoples are raising their voices for the implementation of legal provisions and court decisions relating to Special Protected and Autonomous Regions. The 15th five-year plan for the Government of Nepal is also committed to implementing the legislation.¹¹¹ However, this has not yet been translated into action.

Local governments have proven to be more responsive to the advocacy of Indigenous Peoples than the federal government, and more headway has been made towards realizing self-determination in this arena. For instance, Kirtipur municipality tabled a law in July 2021 to establish a cultural protected area, defining certain territories of the Newa Indigenous Peoples under the auspices of ILO-169, the UNDRIP, Article 226 of the Constitution¹¹² and section 102 and 9 (3)¹¹³ of the Local Government Operation Act. The customary self-government institutions of the Newa [Guthi] are able to exercise full cultural autonomy through which to govern the protected area. The law establishes a protection committee tasked with promoting and protecting the traditional and cultur-

al heritage of the area. The committee members include leaders of the different customary institutions of the Newa Indigenous Peoples, Indigenous leaders, Indigenous activists, and cultural experts.¹¹⁴

Another example of the advancement of Indigenous Peoples' autonomy is that 13 local governments have brought in laws to recognize the customary self-government systems of Tharu communities in Sudurpashchim and Lumbini provinces, western Nepal¹¹⁵ — in Kailali district, where the Tharu self-governance system is called Bhalamansha, and in Bardiya district, where the system is called Barghar.¹¹⁶ Geruwa municipality, in Bardiya district, drafted a bill in March 2023 for the recognition of Barghar, for which LA-HURNIP provided feedback. The municipality is in the process of legislating the law.¹¹⁷

The recognition of customary self-governing systems and establishment of culturally protected areas is based on existing national legislation and the principles of international law. Each Indigenous community has a distinct model of self-government and mechanisms by which to practise their autonomy, and so laws need to be drafted and implemented accordingly, taking into consideration the limitations of national legislation in this regard and referring to more com-

prehensive international law and mechanisms, such as ILO-169 and UNDRIP, to secure the maximum possible autonomy. For instance, Barbardiya municipality brought in a law to recognize Barghar, the customary self-government institution of Tharu, taking into consideration section 11 of the Local Government Operation Act, in particular, which has mandated the local government to protect and develop the language and culture of the people. It has been interpreted that culture and language cannot be protected without protecting the customary self-government institutions of Indigenous Peoples and recognition of such customary institutions means respecting the identity rights of Indigenous Peoples as guaranteed by the Constitution.

The Baram, Newa and Tharu communities have received support from LAHURNIP in these achievements towards self-determination and autonomy. LAHURNIP is supporting Indigenous communities in Nepal to take steps towards realizing self-determination. Which steps they take and how the process

unfolds is different from case to case but what they have in common in their work is that the communities themselves decide what they want to achieve and what strategy to use (based on LAHURNIP's advice), and that local Indigenous Peoples' Human Rights Defenders (IPH RD) and Indigenous organizations do much of the work on the ground through community mobilization.¹¹⁸ LAHURNIP acknowledges that the communities themselves, local IPHRDs, Indigenous activists and community leaders are the ones who know best how their specific self-governance systems operate and encourage them to work accordingly. LAHURNIP provides technical support and legal education to Indigenous communities to strengthen their advocacy for self-determination. At the same time, they give legal advice to local governments on how to draft and table laws to respect the customary rights of Indigenous Peoples. For instance, Kailari and Janki Rural municipalities of Kailali district requested LAHURNIP's support and advice on drafting the law and regulations to recognize the customary self-government systems of Tharu.¹¹⁹

LAHURNIP & Indigenous Peoples' Human Rights Defenders (IPH RD)

The Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) is an organization committed to protecting, promoting, and defending the rights of Indigenous Peoples of Nepal.¹²⁰ Both the Secretariat and the Board of the organization are composed of Indigenous lawyers and they undertake everything from project management to litigation processes themselves. LAHURNIP works to produce knowledge on the rights of Indigenous Peoples, empowering and mobilizing Indigenous Peoples, and providing them with technical support and legal aid.¹²¹ Their work also entails advocacy for Indigenous Peoples' rights at the national, provincial, and local levels.¹²²

LAHURNIP identifies self-determination as a critical issue for Indigenous Peoples in Nepal and securing it as the goal of the organization.¹²³ To ensure this right, they work on gaining legal recognition of Indigenous Peoples' self-governance systems and legal systems, ensuring Free, Prior and Informed Consent (FPIC) and rights to land, territories, and resources, as well as business and human rights issues and public litigation.¹²⁴

LAHURNIP has a network of IPHRDs who are present in all provinces.¹²⁵ The group is composed of a mix of community leaders, leaders of human rights organizations and other Indigenous activists. The most important criteria for selecting IPHRDs is that they are trusted by their community.¹²⁶ IPHRDs are all volunteers and are key actors in mobilizing Indigenous communities, documentation, and advocacy on the ground.¹²⁷

In 2024, LAHURNIP received an award from the Asia Indigenous Peoples Pact for their excellent work on the human rights protection of Indigenous Peoples.¹²⁸



View of Kirtipur. CREDIT: Signe Leth

IV. Case studies

A. Kirtipur cultural protected area

One of the communities that has been successful in using the law to obtain a higher degree of autonomy is the Newa community in Kirtipur, which managed to get six clusters of Newa territory in Kirtipur declared as cultural protected areas. This means that the community can practise cultural self-determination, using their customary self-governance system to take decisions on the protection and promotion of their culture, traditions and heritage within the area.



Bagh Bhairab temple, Kirtipur. CREDIT: Signe Leth

Kirtipur is located in Kathmandu Valley, south-west of Kathmandu city. Kirtipur is an ancient Newa town and its existence can be traced back to the 12th century, making it one of the oldest known settlements in the region.¹²⁹ The Gurkha King, Prithvi Narayan Shah, the so-called founder of modern Nepal, attacked the settlement multiple times in 1768 A.D.¹³⁰ According to the Newa elders of Kirtipur, the first human settlement in Kathmandu Valley started in Kirtipur. Kirtipur has historically been very difficult to conquer and King Prithvi Narayan Shah made several attempts as the Newa

defended their lands from the king's military forces and held out during blockades. Only on the third attempt did the king's troops manage to capture the town of Kirtipur. To this day, there is still a disdain in the Newa community towards King Shah, and especially the formation of Nepal as a unitary state. This is particularly evident in their tradition when, every year on the King's birthday, which is celebrated as National Unity Day in Nepal, Kirtipur community members gather to spit on the stone marking the spot where it is said Prithvi Narayan Shah fell,¹³¹ The stone is also said to look somewhat like the profile of the King!



The Newa community gathers to spit on this stone on the birthday of King Shah. CREDIT: Signe Leth

For a long time, the Newa community of Kirtipur was self-sufficient, and produced all it needed for its subsistence. Its culture is rich and ancient, and the community has preserved and promoted it since its settlement in Kirtipur. However, with the modern state formation in Nepal, the people's culture and heritage has been challenged by different developments. Firstly, through a high pattern of in-migration from non-Newa people to the community area.¹³² Secondly, because the state has tried to assimilate their

customary governance structures and cultural institutions into civil society organizations.¹³³ Finally, the government has encroached upon their community land, treating their traditionally collectively owned cultural and heritage sites as state property.¹³⁴ These

challenges to the land, institutions, and culture of the Newa have been ongoing since the autocratic rule of King Mahendra and have intensified since the 1990s following the introduction of the multiparty system of government.



Newa food. CREDIT: Signe Leth

1. Asserting autonomy

Achieving autonomy is important for the Newa community in order to enable them to make decisions for themselves concerning their community and land. The Indigenous leaders of Kirtipur understand autonomy as being involved in decision-making. Having Indigenous Peoples make their own decisions, using their own customary systems, ensures that the decisions are supported and in line with Newa socio-cultural traditions and land tenure system.

In 2020, the community started their work to get the local government to promulgate an act declaring Kirtipur as a cultural protected area. They established a task force consisting of Newa community members, leaders and activists to lobby the local government. Their advocacy efforts were successful and the process of preparing the act commenced. The task force continued to work alongside the local government during this process, which was important for the community so that the Newa perspective would be represented, as the local government representatives, who are elected through political party lists, represent the interests and priorities of their political party rather than that of Indigenous Peoples. The task force saw the formulation of the law through to the end to make sure it respected the customary institutions of the Newa and was in line with the priorities and needs of the Indigenous Newa people.



One of the many Indigenous meeting places in Kirtipur.
CREDIT: Signe Leth

The first step towards getting the law for the cultural protected area was to carry out a study of the customary institutions and systems in coordination with the local government. The purpose of the study was to explore which parts of the customary governance system were still strong and which needed to be revived, as well as to establish a structure for how the customary system could function within the state structure. This was an important step because informing the local government about the customary governance system helped convince them of how the system could work within the state and why it was important to protect and promote the customary institutions of the Newa. The studies were authorized by the local government as the first step in creating the law and the study was carried out by the community. The act for the establishment of the Kirtipur cultural protected area was promulgated in 2021. Now they are working in three other municipalities to promulgate a similar law, where studies of the customary systems are currently being carried out.

2. Cultural protected area

With the promulgation of the Act, the Newa community can now take their own decisions and manage issues related to culture and heritage within the cultural protected area of Kirtipur, which is divided into six clusters: Kipu, Gamcha, Panga, Nagaun, Bhajangal-Yarbacha, and Chobaha. The Act establishes a system for the community to take decisions on cultural issues through three functional bodies that fit within both the Newa customary governance system and state government bodies. The three bodies within this system are the sub-council, council, and the executive committee, which have the authority to formulate laws and policies for the protection and promotion of Newa culture and carry out the implementation of these policies. All the members of the three functional bodies are elected by the community using their customary systems for the selection, with no intervention from the state. From the local government, the mayor and deputy mayor also have seats in the structure although these are honorary and hold no decision-making power.

While the councils and the committee have decision-making power related to culture and heritage, the government still takes decisions regarding development policies. There is, however, a consultation

process in place with the community when development projects affect cultural or heritage sites in the cultural protected area. This means that even though the Act for the cultural protected area only refers to self-determination on culture, it also affords the community more control over their land because of the protection of heritage sites stipulated in the Act.

Additionally, a draft regulation is in the process of being implemented which provides that lands within the protected area cannot be sold or transferred to others – individuals, companies or government institutions – who would likely impact Newa culture, heritage and tradition. Newa leaders and activists are supporting the local government in the draft of the regulation.

Other decisions the community has taken since the establishment of the cultural protected area are already working to protect and promote the culture of Newa communities. One example is the protection and promotion of the local alcohol. This entails giving the community control over alcohol production, and that this is the main alcohol sold in the area, as the community has decided to ban the import of any other alcohol. Another decision is to rename areas and cultural sites, reviving traditional Newa names that have been changed into Hindu-Brahmin names over the years of state rule. These community decisions and aspirations are also reflected in the draft regulation, which, as of writing, is in the final stage of being passed by the Municipal Assembly.



Indigenous Newa woman pouring rice wine.
CREDIT: Signe Leth



Indigenous brass cups used to drink Newa rice wine.
CREDIT: Signe Leth



Indigenous clay pots used to serve and drink the Newa rice wine. CREDIT: Signe Leth

3. The customary self-governance system

There is a saying: "Newa is born in Guthi, lives his life in Guthi and dies in Guthi."

As the saying goes, all Newa are members of a Guthi from the moment they are born. Guthi is the self-governance system of the Newa. In the past, the Guthi used to be a strong institution and decision-making body governing the Newa community and territories. In addition, Guthi also refers to a type of land tenure that finances the functions of some Guthi organizations.¹³⁵ Now, however, the Guthi has been weakened due to modern state-imposed political, administrative and legal systems and it is limited to maintaining sites with significant cultural and religious heritage and to continuing intangible heritage practices such as festivals and funeral rites. The state-imposed political systems weakened not only the Guthi system but also led to the loss of Newa lands and their transfer into the hands of individuals, companies and state institutions. For instance, Tribhuvan University, established in 1959, making it the oldest higher educational institution in Nepal, took over an area of 154.77 hectares of land in Kirtipur.¹³⁶

In the past, when land was collectively owned and the Newa were self-reliant people, there was time allocated for and prestige placed on participating in the duties of the Guthi system. However, due to privatization and loss of land, most Newa now have to work in the private sector and no longer prioritize time for participating in the duties of the Guthi system. Furthermore, the prestigious status of taking on the roles and responsibilities in the Guthi system has also diminished.

The Newa community has different Guthis that deal with different aspects of their culture, such as death rituals, musical instruments, festivals, and other social work. The Guthis are each organized in slightly different ways but are all headed by a Thakali (Newa elder).

One of the Guthis is Si Guthi, which is responsible for death rituals. Each member of the Guthi is known as a Guthiyar. The principal function of Si Guthi is to coordinate and carry out the funerals of each member of the Guthi. These responsibilities include transferring the body from either the home or other agreed upon location to the funeral pyre, carrying out funeral rites

and the cremation itself, and proper disposal of the ashes. Traditionally, all members of the Si Guthi must be a part of the funeral procession from the house of the deceased member to the cremation ground. The members of each Si Guthi meet once a year to have a feast and coordinate the responsibilities of each member for the coming year.¹³⁷



Street art in Kirtipur portraying Indigenous Newa culture.
CREDIT: Signe Leth

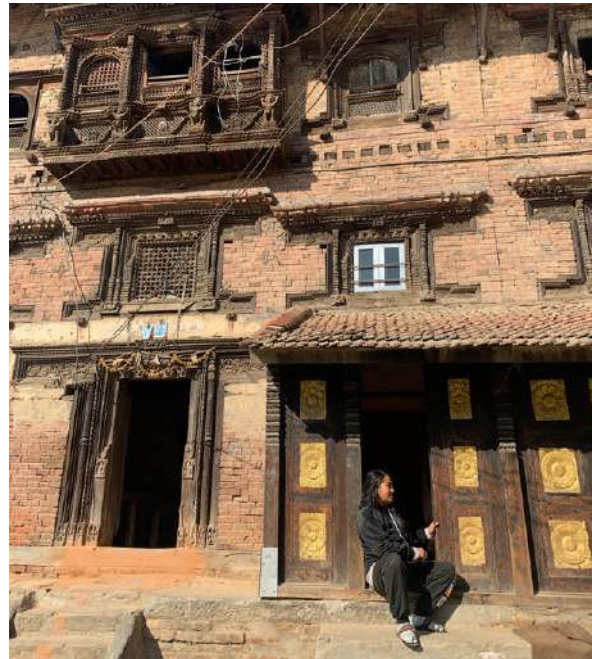
The Baidar (the traditional leader or manager of Si Guthi for the death ritual) is selected by the community from their annual assembly called "Guthi Chawnegu", which is held under the leadership of a Thakali (elder ceremonial head). The Baidar has overall management responsibility of the death ritual and takes the responsibility of secretary and treasurer. Generally, the Baidar is selected for a one-year term but they can stand down if they want to or continue or discontinue for the next term based on the collective decision of the community. The Guthi meeting is held on a rotational basis in the house of members of Si Guthi. The Thakali provides advisory services for the death ritual.

Another example is the Guthi responsible for traditional musical instruments used in festivals and rit-

uals. The leader of this is called the Kaji, who is collectively elected by the community. The Kaji can act as leader for the Guthi for as long as they want and, when they decide to stop, the community will elect their replacement. The musicians, who are selected according to their skills, also have a role to play in this Guthi. The role of Thakali is again important in this Guthi. There is also the role of the Katan Guru, or Guli, who serves as a messenger disseminating information about meetings or decisions. The different roles of the Guthis are assigned to manage the different rituals and events and do not bestow any extra power in terms of veto or otherwise to the persons holding the positions.

Part of their customary system for governance is that decisions are made collectively in the community. The decision-making process takes place through a meeting where all the households participate, make proposals, and discuss. They come to agreements collectively by means of a consensus and not through voting practices whereby a majority vote holds sway. Everyone in the community also contributes to the implementation of the decisions. Consequently, everyone in the community is accountable to one another. In the rare cases where anyone wrongs the community or there is conflict, the customary institutions are used for conflict resolution, which is also done collectively. The decision-making is non-hierarchical and everyone has equal status and say in the process.

Within the Kirtipur cultural protected area, the Newa community can now use these customary institutions for issues of culture and heritage without interference or fear of being overruled by the local government. They do, however, want to expand their autonomy and revive the use of the customary governance systems for other areas such as economy, land, and social issues.



Indigenous Newa craftsmanship seen in the woodcarvings of their houses. CREDIT: Signe Leth



Indigenous Newa craftsmanship seen in the woodcarvings of their houses. CREDIT: Signe Leth

Other Indigenous communities have been inspired by the achievements of the Newa in Kirtipur, for instance the Tharu and Dhimal in eastern Nepal. The Tharu in the Morang district are also facing serious threats to their land, culture and language from the state, and many of their customary institutions are almost lost. They are making efforts to revitalize them, however, and are working with LAHURNIP to protect their land and culture. Due to these efforts, the local government has declared the intention to promulgate an act to declare a cultural protected area for the Tharu territory although the act is still in the formulation process. The hope is that this can protect their land and recognize the customary systems of the Tharu. There is a particular need to protect the collective land of the Gram Than, which is the Tharu's central site and institution of their customary system. The Tharu meet in the Gram Than to celebrate, conduct rituals, hold festivals, and convene when important decisions need to be made collectively. However, this land is under threat because the government sees it as unused, empty land. It is by no means empty or unused – it is of high importance to the Tharu people and used in a manner which the government does not understand.

B. Barghar system of Tharu Indigenous Peoples

The Barghar system is a comprehensive democratic self-governance system of the Tharu. This system was developed by the Tharu's ancestors in order to govern their communities and territories and has been practised since time immemorial. While the Barghar system is old, it has stood the test of time and still functions as a democratic way of organizing and governing society, built on collective decision-making, transparency, and accountability. As in so many other cases, the community faced challenges in retaining this system due to the advent of modern Nepal and state-imposed legal and political systems.

This system is in practice in Banke, Bardiya, Kailai, Kanchanpur and Dang districts. In Bardiya district, it is called the Barghar system, while in other districts it is known by different names: for instance, it is called Balamansha in neighbouring Kailali district and Matawa in Dang district.

1. Mechanisms & structure of Barghar System

According to the 2015 Constitution of Nepal, the state administration is divided into various units: 7 provinces, 77 districts, and 753 local units, known as rural municipalities, municipalities, metropolitan cities or sub-metropolitan cities. These local units have further been divided into wards, each designated by a number.

The Barghar systems, which are recognized by local governments, have been restructured to align with the structure of local government. For instance, in Barbardiya municipality, at the village, ward and municipal levels, a Bhargar network has been created, which is formed through their own election process.

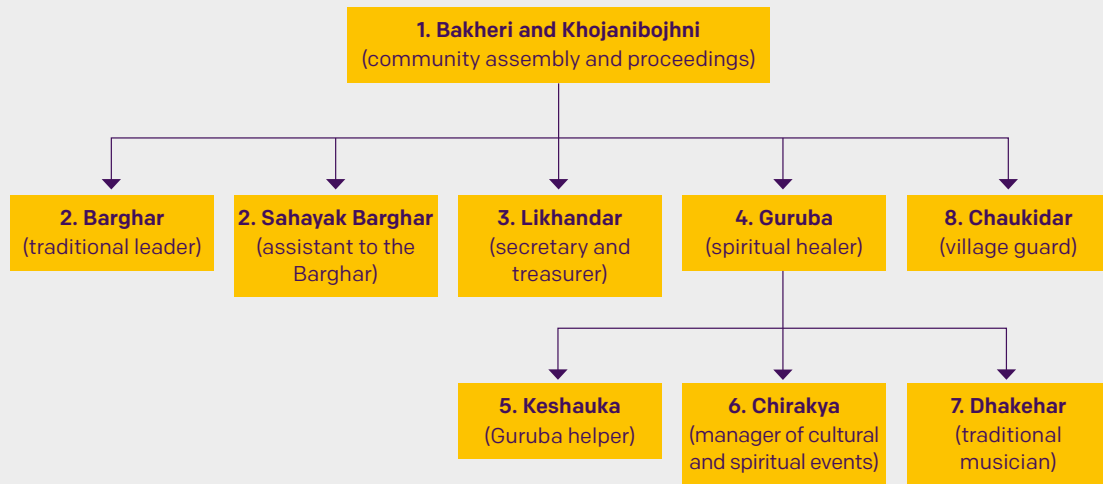
The mechanisms and structures of the Barghar depend on the villages and their population sizes. The diagram below describes the mechanisms and structure of the Barghar system at the small village level in the context of Bardiya district.



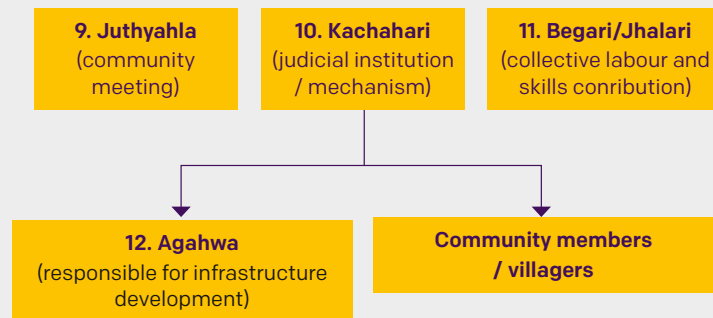
Young Indigenous Tharu woman blesses Elder man of the Barghar during Bakheri. CREDIT: Signe Leth

Barghar system of Tharu Indigenous Peoples

Positions within the community assembly



Other bodies in the Barghar system



1. Bakheri and Khojanibojhni (community assembly and proceedings)

The apex body of the Barghar system is called the Bakheri (community assembly). It takes place once a year during the Tharu Maghi, their new year festival in Magh (mid-January). Each household sends one or two (one man and one woman) representatives to attend the Bakheri. The Bakheri selects the Barghar, the traditional leader (Tharu village head) and other authorities under the Barghar systems such as the Likhandar (secretary), Guruba (spiritual leader), Kesauka (helper of spiritual leader), etc. They select these authorities through consensus but, should consensus not be achieved, they revert to the traditional method of voting by raising their hands for their desired candidates. The position of Barghar requires great commitment to the community as the position is on a voluntary basis and the Barghar works for the community without regard for self-interest or any personal benefit.

In the Bakheri, members carry out social/community audits, conduct progress reviews and reflections on the past year, plan and budget for the next year and formulate and endorse community codes. Community members can comment on the activities and accounting, and pose questions. The Barghar has to be accountable and must respond to the questions raised by the community in the Bakheri. The entire proceedings they perform in the Bakheri are called Khojanibojhni.

2. Barghar and Sahayak (assistant) Barghar

The Barghar is the head of the village or supreme traditional leader selected by the Bakheri for the term of one year. The Barghar can be male or female. The Barghar is considered the head or guardian of the village, human and non-human beings – Mother Nature, land, flora and fauna, the ecosystem, etc. Their main responsibility is to protect all living and non-living things that are held in the village and its surroundings. They must protect their people from disaster/natural calamities and invasion or attack from outsiders and ensure justice for the people. They are tasked with leading development projects in the village and providing humanitarian aid to those in need. Further, they are charged with the protection of community property, culture, tradition and heritage. The Barghar is responsible for coordinating or dealing with external actors. They are also fully responsible and accountable for the implementation of decisions made in the Bakheri. The role of assistant Barghar is to assist the Barghar and to act as leader in the absence of the Barghar.

3. Likhandar (secretary and treasurer)

The Likhandar is assigned to take the notes and minutes of the community assembly, judicial institution and village meetings, as well as to document the decisions made by those bodies. They also ensure the administrative and financial management of the community and act as secretary to the Barghar.

4. Guruba (spiritual leader)

The Guruba is responsible for performing cultural and spiritual functions. The Guruba protects all villagers, Mother Nature, food crops, and non-human/non-living things through spiritual processes. Their role is to perform ceremonies during community celebrations and undertake two kinds of healing practices for the community: spiritual healing as a shaman and healing with herbal medicine as a doctor. They are considered experts in terms of the socio-cultural and spiritual dimensions and serve as cultural and spiritual advisors of the Tharu.

5. Keshauka (Guruba helper)

The Keshauka assists the Guruba to perform cultural, religious and spiritual functions.

6. Chirakya (manager of cultural and spiritual events)

The Chirakya is the administrative manager of social, cultural and spiritual events, and also conducts social work as assigned by the Barghar. They light the lamp in the sacred place (Thanwa Manwa) every evening and manage the pure fire that is needed in different social, cultural and spiritual events.

7. Dhakehar (traditional musician)

The Dhakehar is a person who is assigned to play traditional musical instruments in different ceremonies, social-cultural and spiritual functions.

8. Chaukidar (village guard)

The Chaukidar is in charge of the safety of the village, providing security for the community and their property. They carry out tasks as assigned by the Barghar and disseminate information for assembling the people.

9. Jutyahla (community meeting)

The Jutyahla is the community meeting held under the leadership of the Barghar at least once a month to deal with the various community problems and issues.

10. Kachahari (judicial institution/mechanism)

The Kachahari is a mechanism that involves community meetings for dispensing justice. These community meetings are held under the leadership of the Barghar to settle disputes. The Barghar is also in charge of mediation. Procedures for dispensing justice are guided by the norms and spirit of equality,

equity, reciprocity and non-discrimination, ensuring that justice is accessible, available, affordable to all, speedy and culturally sensitive. The Barghar listens to the opinions of the community members, who participate in case hearings and make collective decisions. When resolving disputes, the Barghar only issues a decision once both parties are satisfied with the result as the Tharu community is built on the principle of consensus.

This judicial mechanism, used to settle all forms of cases prior to the creation of modern Nepal, has been limited due to the state's legal and political system. The Kachahari cannot adjudicate on serious criminal cases and must instead refer such cases to the police, local judicial council and courts. Nonetheless, the Barghar system is very effective in resolving conflicts and the Barghar is often asked by local authorities to help in the mediation and resolution of disputes.

11. Begari/Jhalari (collective labour and skills contribution)

The Begari/Jhalari is the collective labour and skills contribution for the common good or community development that is done under the leadership of the Barghar.

12. Agahwa (responsible for infrastructure development)

The Agahwa is in charge of infrastructure development activities, leading and mobilizing the community to conduct the projects, allocating duties and responsibilities to community members. They monitor the work to ensure the quality of the work and labour contribution.



Indigenous Newa celebrating Bakheri. CREDIT: Signe Leth

According to the interaction with the community, the Barghar system has also proven effective for abolishing harmful practices. One example of this is the abolition of child marriage. Many NGOs, INGOs and government agencies have advocated against child marriage in the area to very little effect. However, in Madhuwan municipality, the Barghar has been successful in abolishing child marriage, proving how strong the system is for advocacy and awareness raising.

As stated by interview participants, the Barghar system has played a historical role in the exercise of their autonomy and self-determination and in keeping the community intact with a sense of collectivism, which

is and has been instrumental in protecting Tharu culture, tradition, heritage and identity. This system has somehow been successful in transmitting Tharu knowledge systems, spirituality, cosmovision and Indigenous medical science rooted in nature and biodiversity to younger generations, maintaining peace and order in society.

2. Asserting autonomy through recognition of the Barghar system

In the western part of the Terai region of Nepal, the Tharu made great efforts to influence local governments to recognize their customary institution, the Barghar system. Their efforts proved successful as Barbardiya municipality issued the first law to recognize the Barghar system in 2021. Since then, four other municipalities in Bardiya district have also passed such laws, and municipalities in two neighbouring districts have done the same. In total, 13 local governments have tabled laws to recognize the customary self-governance systems of the Tharu; the laws are not fully implemented, however. The Barghar system is important to the Tharu because this is one of the most significant ways in which they practise autonomy in their communities.

Having the Barghar system formally recognized is of great importance to the Tharu as it ensures more clarity on their jurisdiction in relation to that of local governments. It also allows them to access financial support from the government as positions in the Barghar system are on a voluntary basis but are full-time, meaning those elected cannot find other employment. Additionally, financial support can also be accessed to support the development activities – such as fixing roads and bridges – carried out by the community, tasks that are currently also done voluntarily and financed by the community themselves.

Most local governments already give some degree of informal recognition to the system as the authorities realize they need the support of the Barghar to implement their activities and help resolve conflicts. However, some villages also enjoy some degree of formal recognition and support from the local government. For example, Banjariya village receives support from Ward Office 5 of the Geruwa rural municipality, which includes a monthly amount of 500 Nepalese Rupees to cover the communication costs of the Barghar, who also receives an official identity card. Such an example is encouraging but the most support is found in the municipalities that have instituted laws recognizing the Barghar system.

Barbardiya municipality was the first to enact a law recognizing the Barghar system, which came about due to efforts by the Barghars in the municipality organizing themselves to lobby authorities. The 72 Barghars in the municipality formed a network to help promote their system and traditions and they supported each other by exchanging experiences and assisting each other to resolve issues. They formed a Barghar committee for the whole municipality, including at the ward and village level, which they used to lobby for the recognition of the Barghar system by the local government. These efforts, with the support of the mayor at the time, who was a Tharu, led to the Barghar Act being passed in the municipality.

The communities continue to work alongside the government, with the support of LAHURNIP, to develop the directives and regulations needed for implementation of the law. The law has already led to the community organizing itself better as they revitalize and formalize the Barghar system in law. It has also led to greater respect for the Barghar from the younger generations, who see their leaders re-

spected by officials and who are also involved in important decisions and supported financially. Communities also receive financial support from local level funds for development projects, which are now channelled through the Barghar system instead of through a parallel government process. It has also brought clarity over legal jurisdiction as to which cases the Barghar system can resolve – civil cases and disputes– and which ones need to be directed to the authorities and judiciary – criminal cases. The law further gives the communities more access to state decision-making processes as the Barghars are invited to participate in official local government meetings. To fit with the federal structure of the state, the act has also introduced multiple layers of the Barghar system with municipality, ward, and village level Barghars, which has not traditionally been part of the system. The Tharu are aware, however, that when working on these laws their system needs to remain independent and not become another state institution.

While the Tharu continue to secure recognition in additional municipalities in the area, they also aspire to get their customary system recognized at the national level. They want to inspire other Tharu in other parts of Nepal to revive their governance systems and advocate for the promotion of Indigenous Peoples' self-governance systems in general. They also want to share their experience and distinct governance system at the international level. To do so, they first see the need to extensively document the Barghar system and how it functions.

The Santhal community in Southeast Nepal, for example, has drawn on the experience of both the Newa in Kirtipur and the Tharu in Bardiya. The Santhal have been dispossessed from large parts of their ancestral land, which is now either owned privately or by the government, this latter having tried to further displace the Santhal to make way for a national park. However, they have been working to reclaim their land and get it recognized as collective or community land. The community organized itself and lobbied the local government, which resulted in them supporting the community financially and abandoning the plan to establish a park on their lands. The community has also been successful in reclaiming some of their collective land and getting it declared a cultural protected area. However, restrictions on access and use of the forest poses a challenge to the continuation of the rituals and culture of the community.



Santhal Indigenous women at a community meeting.
CREDIT: Signe Leth

The customary system of the Santhals is called Maji and is primarily used for settling community disputes. The Maji system has been practised for generations but is also under pressure from encroachment onto Santhal land and the strength of the federal state system of Nepal. Based on the experience of the Tharu, the Santhal, who are also working with LAHURNIP, are now lobbying for government recognition of the system and to protect and revive it. One local ward chair has advocated for recognizing a version of the Maji system that is adapted to fit into the state structure; however, it is important for the Santhal that the version that is recognized is the original customary system that works on the village level. While they can still coordinate with all levels of government, they want the system to continue to work independently. Central to the Maji system is the Maji tan, a sacred collective site used, for instance, for the annual gathering that forms part of the governance system. The area of the Maji tan in the community is also threatened by encroachment.



Indigenous Bankaria women. CREDIT: Signe Leth



Kirtipur. CREDIT: Signe Leth

V. Final reflections

Self-determination is necessary for the Indigenous Peoples of Nepal to secure the fulfilment of their rights. Self-determination is essential to addressing the historic discrimination and land dispossession they have experienced since the state of Nepal was formed. Indigenous Peoples lost their nations in the state formation process and have continuously been robbed of their land, territories and resources ever since.¹³⁸ Indigenous Peoples in Nepal are discriminated against and marginalized by state institutions and therefore need the legal space to make their own decisions and ensure they can seek justice within their communities through their own customary systems and institutions.¹³⁹ Further, the Hindu caste system is discriminatory towards Indigenous Peoples and self-determination is necessary to counter this historic racism and colonialization.¹⁴⁰ Finally, when the Nepalese state was restructured less than 10 years ago after years of armed conflict, federalization was not done with due consideration for or responsiveness to the wishes of Indigenous Peoples.¹⁴¹

Focusing on advocacy towards the local government has proved to be an effective way of securing more autonomy for Indigenous Peoples. Although the laws that can be promulgated on this level are not enough to fully secure Indigenous Peoples' right to self-determination, they are a step in the right direction. Concretely, the efforts of LAHURNIP and the communities have been used to secure the cultural autonomy of the Newa Indigenous Peoples in Kirtipur, which helps to promote and protect their culture, and can also potentially lead them to have more control over their land. These coordinated efforts have also resulted in recognition of the customary system of Tharu communities in western Terai region, which has secured their decision-making power through their own systems of local development and conflict resolution, with the exception of criminal cases.

According to the experiences of LAHURNIP and the Indigenous communities they work with, there are several elements that need to be in place if the struggle for some level of legally recognized autonomy within the current state of Nepal is to be successful. These include:

1. Well-organized community with strong consensus about the importance of self-determination and autonomy for their community.
2. Clearly defined and well-functioning customary institutions, with capable leadership to guide and govern the community during the struggle and also once autonomy has been achieved so that laws promulgated do not dilute their systems or become assimilated into those of the state).

3. Continued and strong engagement from the community in the struggle, including with the drafting of laws and acts so they are not imposed with parallel government structures that weaken customary institutions.

The case of the recognition of the Barghar system also exemplifies the importance of allocating budget alongside the promulgation of laws. This can be used to cover the expenses of the Barghar and to ensure that the community's decisions are effectively carried out, as local development funds are managed by the communities. This is in line with the UNDRIP, which states that, as part of Indigenous Peoples' right to autonomy, they are entitled to a means of financing their autonomous functions.

What the experience also shows is that even with the local laws, there is still a need to further resolve and clarify the responsibilities of various jurisdictions. In the case of the Newa, they are still working on ensuring that when development activities, which are still decided by the local government, interfere with cultural sites, they are consulted and have decision-making power. And, in both cases, Newa and Tharu, there is a question of whether the central government can overrule the authority of the customary institutions and still impose development projects and grab ancestral land from the communities. This also shows that full and comprehensive fulfilment of Indigenous Peoples' right to self-determination requires control over their lands, territories, and resources, along with their political, judicial and cultural autonomy.

While both the Newa in Kirtipur and the Tharu in Bardiya and neighbouring districts have had some success in getting these acts promulgated at the local level, both are interested in expanding the work. They hope that the laws they have in place can be replicated in other local governments in order to also secure more autonomy for other Indigenous communities. For the Newa, they also wish to expand the autonomy to cover more areas than simply culture, and to use their customary systems for development, social issues, and economic decisions as well. Finally, they both see a need to eventually have their rights and autonomy secured at the national level.

Years of work have been done by these communities to revitalize their customary governance systems and work with local governments to see their recognition and formalization in law. They are not done, however, and are continuing to work to see the rights of Indigenous Peoples in Nepal to self-determination and autonomy fully realized.

Endnotes

1. United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295 [UNITED] & ILO Convention 169 [Doc.16_Indigenous and Tribal Peoples Convention.pdf (un.org)]
2. Pedro García Hierro (2021). Territorial Governance and Indigenous Peoples. In Alberto Chirif (ed) *Towards the conquest of self-determination: 50 Years since the Barbados Declaration*. p. 206. & Victoria Tauli-Corpuz (2020). Rights of indigenous peoples: Report of the Special Rapporteur on the rights of Indigenous Peoples. In IWGIA: *Building Autonomies*. p. 36.
3. [International Covenant on Civil and Political Rights | OHCHR](#)
4. [International Covenant on Economic, Social and Cultural Rights | OHCHR](#)
5. United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295 [UNITED]
6. Pedro García Hierro (2021). Territorial Governance and Indigenous Peoples. In Alberto Chirif (ed) *Towards the conquest of self-determination: 50 Years since the Barbados Declaration*. p. 206.
7. Ibid.
8. Victoria Tauli-Corpuz (2020). Rights of indigenous peoples: Report of the Special Rapporteur on the rights of Indigenous Peoples. In IWGIA: *Building Autonomies*. p. 36.
9. United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295 [UNITED]
10. Ibid.
11. Ibid.
12. Free, prior and informed consent: a human rights-based approach. Study of the Expert Mechanism on the Rights of Indigenous Peoples. A/HRC/39/62 [G1824594.pdf (un.org)]
13. Ibid.
14. Ibid.
15. Ibid.
16. Ibid.
17. Ibid.
18. Ibid.
19. Ibid.
20. Ibid.
21. United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295 [UNITED]
22. IWGIA (2019). *Report: Indigenous Peoples' Right to Autonomy and Self-Government as a Manifestation of the Right to Self-Determination*. p. 13.
23. Ibid.
24. Rodolfo Stavenhagen (2000). Introduction: Towards the right to autonomy in Mexico. In Aracely Burguete Cal and Mayor (ed), *Indigenous Autonomy in Mexico*. p. 14-15 & IWGIA (2019). *Report: Indigenous Peoples' Right to Autonomy and Self-Government as a Manifestation of the Right to Self-Determination*. p. 5.
25. Stavenhagen, 16-17.
26. Jens Dahl (2020). Study on indigenous peoples' autonomies: experiences and perspectives. In IWGIA: *Building Autonomies*. p. 18-19.
27. Tauli-Corpuz, 37 & Stavenhagen, 17.
28. Stavenhagen, 16-17.
29. Dahl, 21-23.
30. Dahl, 23 & Benedict Solang (2020). On Defining Regional Autonomy for the Cordillera. In PCA: *On Defining Regional Autonomy for the Cordillera*. p. 4-5.
31. Solang, 4.
32. Solang, 4-6.
33. Ibid.
34. Solang, 4-5.
35. Tauli-Corpuz, 36-37.
36. Report of the Special Rapporteur on the rights of Indigenous Peoples. A/74/149 (2019). Paragraph 59 & Dahl,, 21.
37. Tauli-Corpuz, 14.
38. United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295 [UNITED]
39. Shanker Limbu (2020). Autonomy for Indigenous Peoples in Asia: A Path to Justice, Liberty, and Democracy. In IWGIA: *Building Autonomies*. p. 60-61.
40. Stavenhagen, 12.
41. Krishna B. Bhattachan (2023). *Customary Self-Government Systems of the Tamhang (Thakali) Nation*. P. 8.
42. Bhattachan, 7-8.
43. Message from Gam A. Shimray, Secretary-General, AIPP. In Krishna B. Bhattachan (2023). *Customary Self-Government Systems of the Tamhang (Thakali) Nation*. p. vi.
44. Stavenhagen, 16-17.
45. Stavenhagen, 16-17 & Tauli-Corpuz, 36-37.
46. Government of Nepal: National Foundation For Development of Indigenous Nationalities (2022). Caste and Ethnicity. [Caste and Ethnicity | National Foundation for Development of Indigenous Nationalities (nfdin.gov.np)]
47. IWGIA. Nepal. [Nepal - IWGIA - International Work Group for Indigenous Affairs]
48. IWGIA. Nepal. [Nepal - IWGIA - International Work Group for Indigenous Affairs]
49. Krishna B. Bhattachan (2024). Nepal. In IWGIA/Dwayne Mamo (ed.), *The Indigenous World 2024*. p. 257-267.
50. Based on interviews with LAHURNIP.
51. Gurung, Om (2009). Social Inclusion: Policies and practices in Nepal. Occasional Papers, Vol 11, p. 4-5 [D:\Occasional Paper.pmd (cam.ac.uk)]
52. Krishna B. Bhattachan (2021). Issues of Ethnopolitics in Nepal. In Michael Weiner (ed.), *Routledge Handbook of Race and Ethnicity in Asia*. p. 52.
53. Based on interviews with LAHURNIP.
54. Based on interviews with LAHURNIP.
55. Krishna B. Bhattachan (2016). Nepal. In IWGIA/Diana Vinding and Cæcilie Mikkelsen (ed.), *The Indigenous World 2016*. p.323-324.
56. Nepal: Chapter 4: The Life of an Indigenous Youth Abhinav JOSHI (Newar, Patan, Lalitpur).
57. Ibid.
58. Bhattachan (2021), p. 46.
59. LuisangWaiba Tamang (2005). Nepal: Indigenous Youth and the Armed Conflicts. In IWGIA/Alejandro Parellada and Kathrin Wessendorf (ed), *Indigenous Affairs: Indigenous Youth*. p. 50.
60. Ibid.
61. Ibid.
62. Bhattachan (2021), p. 50-51
63. Tamang (2005), p. 50.
64. Bhattachan (2021), p. 50-51.
65. Bhattachan (2021), p. 50

66. Ibid.
67. Bhattachan (2021), p. 53.
68. Krishna B. Bhattachan (2023). *Customary Self-Government Systems of the Tamhang (Thakali) Nation*. p. 51.
69. IWGIA. Nepal. [Nepal - IWGIA - International Work Group for Indigenous Affairs]
70. Bhattachan (2016), p.323-324.
71. Ibid.
72. Constitution of Nepal (2015).
73. Based on interviews with LAHURNIP.
74. Based on interviews with LAHURNIP.
75. Bhattachan (2021), p. 53
76. Ibid.
77. IWGIA (2023). IWGIA and AIPP condemn the violent response to peaceful protests of Indigenous Peoples in Nepal. [IWGIA and AIPP condemn the violent response to peaceful protests of Indigenous Peoples in Nepal - IWGIA - International Work Group for Indigenous Affairs]
78. AIPP (2023). EMRIP16: Item 3 – Statement of Lawyers’ Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) [EMRIP16: Item 3 – Statement of Lawyers’ Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP)] & IWGIA (2023).
79. AIPP (2023).
80. AIPP (2023); IWGIA (2023); Deo Narayan Sah. Twelve injured as protestors clash with police in Biratnagar. The Kathmandu Post, 28 March 2023. [<https://kathmandupost.com/province-no-1/2023/03/28/protestors-police-clash-in-biratnagar>]; & Pradeep Menyangbo. Man injured during Biratnagar protest demanding renaming of Koshi province dies. The Kathmandu Post, 24 March 2023. [<https://kathmandupost.com/province-no-1/2023/03/24/man-injured-during-biratnagar-protest-demanding-renaming-of-koshi-province-dies>]
81. Krishna B. Bhattachan (2023). Nepal. In IWGIA/Dwayne Mamo (ed.), *The Indigenous World 2023*. p.260-266 & IWGIA (2018). When economic development destroys indigenous peoples’ livelihood [<https://www.iwgia.org/en/nepal/3257-economic-development-destroys-indigenous-peoples-livelihood.html>]
82. Krishna B. Bhattachan (2023). Nepal. In IWGIA/Dwayne Mamo (ed.), *The Indigenous World 2023*. P.260-266; IWGIA (2018). When economic development destroys indigenous peoples’ livelihood [<https://www.iwgia.org/en/nepal/3257-economic-development-destroys-indigenous-peoples-livelihood.html>] & IWGIA (2023). Nepal: Stop State brutality against the Tamang Indigenous Peoples and locals [<https://www.iwgia.org/en/nepal/5005-statement-nepal-stop-state-brutality-against-tamang-indigenous-peoples-locals.html>]
83. LAHURNIP (2022). Impact of Dhorpatan Hunting Reserve and Chitwan National Park on Indigenous Peoples in Nepal. [<https://www.lahurnip.org/uploads/publication/file/impact-of-dhorpatan-hunting-reserve-and-chitwan-national-park-on-indigenous-peoples-in-nepal.pdf>]
84. LAHURNIP, NEFIN, NIWF, YFIN, NIDA, NCARD and INWOLAG (2018). Alternative Report of the Indigenous Peoples of Nepal to the State Report Submitted by the Government of Nepal to the Committee on the Elimination of Racial Discrimination. [<https://www.lahurnip.org/uploads/project/file/alternative-report-2018.pdf>]
85. Pyakurel, Diwakar. UN adopts the new Global Biodiversity Framework. What does this mean for Nepal? Online Khabar, 20 December 2022. [<https://english.onlinekhabar.com/un-global-biodiversity-framework-2022.html>]
86. Ministry of Foreign Affairs, Nepal (2023). Statement by Prime Minister and Leader of Nepali Delegation Right Honourable Mr Pushpa Kamal Dahal ‘Prachanda’ at the 28th Conference of Parties on Climate Change (COP28). [<https://mofa.gov.np/statement-by-prime-minister-and-leader-of-nepali-delegation-right-honourable-mr-pushpa-kamal-dahal-prachanda-at-the-28th-conference-of-parties-on-climate-change-cop28-dubai-uae-02-december-2022/#:~:text=Nepal%20is%20fully%20committed%20to,45%20percent%20forest%20covered%20land>]
87. IWGIA (2018). When economic development destroys indigenous peoples’ livelihood. [<https://www.iwgia.org/en/nepal/3257-economic-development-destroys-indigenous-peoples-livelihood.html>]
88. IWGIA (2018). When economic development destroys indigenous peoples’ livelihood. [<https://www.iwgia.org/en/nepal/3257-economic-development-destroys-indigenous-peoples-livelihood.html>]
89. <https://www.lahurnip.org/kathmandu-valley-road-expansion-widening-projects>
90. Krishna B. Bhattachan (2022). Nepal. In IWGIA/Dwayne Mamo (ed.), *The Indigenous World 2022*. P. 272-274
91. IWGIA (2023). Nepal: Stop State brutality against the Tamang Indigenous Peoples and locals. [<https://www.iwgia.org/en/nepal/5005-statement-nepal-stop-state-brutality-against-tamang-indigenous-peoples-locals.html>]
92. Krishna B. Bhattachan (2023). Nepal. In IWGIA/Dwayne Mamo (ed.), *The Indigenous World 2023*. P.260-266
93. LAHURNIP (2022). *Impact of Dhorpatan hunting reserve and Chitwan National Park on Indigenous Peoples in Nepal*. P. 33-62. [<https://www.lahurnip.org/uploads/publication/file/impact-of-dhorpatan-hunting-reserve-and-chitwan-national-park-on-indigenous-peoples-in-nepal.pdf>]; LAHURNIP & NIWF (2020). Fact Finding Mission Report: Violation of Indigenous Peoples’ Human Rights in Chitwan National Park of Nepal. P.10-28. [https://www.iwgia.org/images/publications/new-publications/2020/Violation_of_Indigenous_Peoples_Human_Rights_in_Chitwan_National_Park_of_Nepal.pdf]
94. Based on interviews with LAHURNIP.
95. Constitution of Nepal (2015).
96. Based on interviews with LAHURNIP.
97. Constitution of Nepal (2015).
98. Ibid.
99. Ibid.
100. Based on interviews with LAHURNIP.
101. Constitution of Nepal (2015).
102. Government of Nepal (2017). Local Government Operation Act.
103. Based on interviews with LAHURNIP.
104. LAHURNIP. Special, Protected and Autonomous regions of Indigenous Peoples in Nepal. [<https://www.lahurnip.org/special-protected-and-autonomous-regions-of-indigenous-peoples-in-nepal>]
105. Based on interviews with LAHURNIP.
106. Government of Nepal (2017). Local Government Operation Act.
107. Based on LAHURNIP-IWGIA project documents,
108. CERD/C/NPL/CO/17-23 [1808528 (un.org)].
109. Based on interviews with LAHURNIP.
110. Based on interviews with LAHURNIP
111. Krishna B. Bhattachan (2020). Nepal. In IWGIA/Dwayne Mamo (ed.), *The Indigenous World 2020*. p.308
112. Stating: “A Rural Municipal Assembly and Municipal Assembly may make necessary laws on the matters enumerated in the lists contained in Schedule-8 and Schedule-9.”
113. Stating: “Municipality can declare any place within its area as a cultural area.”
114. LAHURNIP (2021). Newa Indigenous Peoples secured Rights to Cultural Self-determination. [<https://www.lahurnip.org/news/110>]
115. Based on interviews with LAHURNIP
116. LAHURNIP (2023). Interactions on the Legal Recognition of Customary Self-governing and Judicial Systems of Tharu Indigenous Peoples. [<https://www.lahurnip.org/news/140>]

117. Based on interviews with LAHURNIP.
118. Ibid.
119. LAHURNIP (2023).
120. LAHURNIP. About Us. [www.lahurnip.org/we-and-our-vision]
121. LAHURNIP. Our Focus. [www.lahurnip.org/what-we-do]
122. Based on interviews with LAHURNIP
123. Ibid.
124. Ibid.
125. Ibid.
126. Ibid.
127. Ibid.
128. Indigenous Voice (2024). AIPP honors LAHURNIP, Kapaeeng Foundation, and IWGIA for championing Indigenous Peoples' rights. [https://english.indigenousvoice.com/news/aipp-honors-lahurnip-kapaeeng-foundation-and-iwgia-for-championing-indigenous-peoples-rights]
129. Online Khabar (2024). Which are the oldest human settlements in the Kathmandu valley? [https://english.onlinekhabar.com/old-human-settlement-kathmandu-valley.html]
130. Outfitter Nepal. Kirtipur. [https://outfitternepal.com/kirtipur]
131. Indigenous Voice 92021). Why Kirtipur never forgives Prithi Narayan Shah. [https://english.indigenousvoice.com/news/why-kirtipur-never-forgives-prithvi-narayan-shah]
132. Nelson, Andrew (2015). Land and Ethnicity in a Time of Urbanization: The case of plot #7 in western Kathmandu Valley. Studies in Nepali History and Society, 20(2), p. 254-257.
133. Based on interviews with Newa informants 14 January 2024.
134. LAHURNIP. Sacred lands of Indigenous Pradhan News was grabbed by Mega Business Complex, Thamel Kathmandu. [https://www.lahurnip.org/sacred-lands-of-indigenous-pradhan-newa-was-grabbed-by-mega-business-complex-thamel-kathmandu] & LAHURNIP. The Lands Grabbing in Khokana – the Ancestral Lands of Newa. [https://www.lahurnip.org/the-lands-grabbing-in-khokana-the-ancestral-lands-of-newa]
135. Tucker Scott (2019). The Guthi System of Nepal. SIT Graduate Institute. [https://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=4205&context=isp_collection]
136. Tribhuvan University. About Us. [https://tu.edu.np/pages/about-us-2]
137. Scott, 2019.
138. Based on interviews with LAHURNIP & Bhattachan (2021), p. 47.
139. Based on interviews with LAHURNIP.
140. Ibid.
141. Ibid.

About IWGIA

IWGIA - International Work Group for Indigenous Affairs - is a global human rights organisation dedicated to promoting and defending Indigenous Peoples' collective and individual rights, including the right to self-determination by virtue of which they can freely determine their political status and freely pursue their selfdetermined economic, social and cultural development.

To us, everything begins with partnerships.

We work through a global network of partners, first and foremost Indigenous Peoples' own organisations and networks but also support NGOs, academia, international human rights bodies and alliances. Over our more than 55-year history, IWGIA has built and developed unique, long-standing partnerships with Indigenous Peoples' organisations and networks from all 7 Indigenous socio-cultural regions of the world.

Everything we do is with and in support of Indigenous Peoples.

Through our engagement with the Indigenous Peoples' movement around the world, we have learned the importance of local leadership and flexible and agile support. In close cooperation with our partners, we coordinate, enhance and, when necessary, lead advocacy efforts at national, regional and international levels in pursuit of common objectives within a framework of dialogue, mutual trust, respect and cooperation.

In this way, IWGIA plays a global, facilitative support role for Indigenous Peoples and the advancement of their rights.



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