

Annual Report 2019

Lawyers' Association for Human Rights of Nepalese Indigenous Peoples

(LAHURNIP)

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Published by: Lawyers' Association for Human Rights of Nepalese
Indigenous Peoples (LAHURNIP), Anamnagar, Kathmandu, Nepal

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ISBN:

Preface

Nepal is still struggling with the political transition. After the promulgation of the 2015 constitution many events took place in the political arena of Nepal such as election of three levels of state structures, formulation of federal, provincial and local level governments, revision and formulation of laws and policies etc.

However, dissatisfactions and grievance of indigenous and other historically marginalised communities in place. No substantive steps have been taken to address the issues of historically marginalised communities by the state. Indigenous and other historically marginalised communities constantly taking street demanding their economic, social, cultural and political rights. Ironically, the state does not seem serious and sincerer to their rights.

The indigenous peoples of Nepal have been facing discrimination and marginalisation for long time and raising their voices of equality and justice. But, there have not been any positive changes to promote and protect their rights. Even in the recent political change, federal democratic republic, there has not been any substantive changes to ensure the rights of the indigenous peoples of Nepal. There is no justifiable participation and representation of indigenous peoples in the decision

making process and levels. Even the space for indigenous peoples is being shrinking during the period of the newly formed two third majority government which is not positive sign for rule of law, democracy and human rights in Nepal.

The LAHURNIP has been supporting to the communities to ensure their human rights ensured by the national and international human rights instruments. In particular, LAHURNIP has been closely working with the indigenous peoples to empower them and promote their rights enshrined in the ILO Convention No. 169 and the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP).

This report includes the achievement and learning in the course of working with the indigenous peoples in the reporting period where various organisations, institutions and actors have supported the LAHURNIP intensively and positively. We would like to extend our sincere gratitude to all of them who have assisted to ensure the rights of indigenous peoples in Nepal in amicable manners.

Last but not the least, many thanks to all the secretariat members who have contributed intensively in the course preparation and publication of this annual report

Shanti Kumari Rai

Chairperson

Abbreviation

ADB	Asian Development Bank
AIPP	Asia Indigenous Peoples Pact
BS	Bikram Sambat
EIB	European Investment Bank
FoNIJ	Federation of Nepalese Indigenous Journalists
ILO	International Labour Organisation
IPOs	Indigenous Peoples Organisation
IPs	Indigenous Peoples
IWGIA	International Work Group for Indigenous Affairs
LAHURNIP	Lawyers' Association for Human Rights of Nepalese Indigenous Peoples
NEFIN	Nepal Federation of Indigenous Nationalities
NFDIN	National Foundation for Development of Indigenous Nationalities
NIDA	National Indigenous Disabled Association
NIWF	National Indigenous Women's Federation
NPC	National Planning Commission
RM	Rural Municipality

SC	Supreme Court
SDGs	Sustainable Development Goals
UNDRIP	United Nations Declaration of the Rights of Indigenous Peoples
WB	World Bank
YFIN	Youth Federation of Indigenous Nationalities

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1. Introduction

This annual report presents the major progresses made by the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) during the fiscal year 2075/76 BS (2018/19 AD).

The LAHRUNIP is an organisation of human rights lawyers working for the rights of Indigenous Peoples (IPs) in Nepal. It was established in 1995 by the professional Indigenous lawyers with objectives of ensuring social justice through legal service including *Pro bono* legal services in collective rights cases. It has primary objectives of promoting, protecting and defending human rights and fundamental freedoms of IPs in Nepal. It envisions a situation where IPs are equally participating in the decision making process, and are valued, respected and listened to, where they feel safe, secure and they can develop their the fullest potential, equal rights and dignity simultaneously in democracy.

LAHURNIP is promoting for better implementation of ILO convention No. 169, United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) *inter alia* other international human rights instruments that Nepal is a party to. It has been working to create solidarity to the regional and international IPs' rights promotional movements. Meanwhile, LAHURNIP is supporting Indigenous communities to manifest their

rights, particularly those who are affected by the projects in their land, territories and natural resources, in laws and policies.

Violations of IPs rights over lands, territories and resources is one of the major issues in the latter period in Nepal context of Nepal. Land acquisition and encroachments by the State and non-state actors/private sector in the name of development has, such as hydropower generation, road construction, building of business complexes etc, been one of the major challenges encountered by the indigenous peoples of Nepal.

2. MAJOR ACHIEVEMENTS

The major achievements made during the reporting period have been presented as follows:

2.1. Court Cases

The LAHURNIP has been supporting to indigenous and local communities providing *pro bono* legal service on the cases of violation of collective human rights of indigenous and local communities. There several cases of violation of such cases across the country and many cases are under-judice at district, appeal and supermen courts. Following are some of the cases supported by the LAHURNIP during the reporting period:

2.1.1. Kathmandu Valley Road Expansions

The Supreme Court (SC) gave its verdict in favor of the road expansion project affected communities in the Kathmandu valley in 2017. But the government of Nepal (Kathmandu Valley Development Corporation) approach to the court for review of the decision made by the full bench of the court. However, the reviewed decision also in the favor of the affected communities.

The decision of the Court includes justifiable compensation to the affected communities, consultation, re-housing to the displaced, information dissemination to the affected etc. However, the government

is reluctant to implement the verdict of the SC. The affected communities are still engaged protests for full implementation of the SC verdict. Following are the directives issued by the SC on the writ petition:

- a. Acquire land lawfully before marking the road boundaries since Section 4 of Public Road Act 2031 requires land acquisition to be done for road boundaries.
- b. Treat the act of depriving the right to housing as an extremely sensitive manner and do not proceed with any work that adversely affects the security of a house, unless there are no alternative solutions.
- c. In the event of road having to run through residential areas, consider the children's right to education and provide ample time to find alternative solutions to avoid adversely affecting them.
- d. Since talks are an easy, simple, effective and indisputable means of acquiring land, highly prioritize talks between expert groups and stakeholders to acquire land.
- e. --- The rights to relocation and rehousing of the displaced should be addressed equitably and benefits and compensation provided as per sections 13, 16 of Land Acquisition Act 2034 and Land Acquisition Regulations 2026
- f. Keep environment conservation and conservation of sites of archeological significance at the center of developing and executing a development project

2.1.2. Santhal Displacement

The Santhal indigenous peoples of Morang district is one of the highly marginalised indigenous communities in Nepal. As other IPs of Nepal their land and territories has been encroached by the state and non-state actors in a systematic manner. The lands of Santhal community were encroached by the state in the name of road expansion and by individuals as well who have connection to the power. They have displaced their lands and settled other place that fall under their traditional lands. However they are still facing problem because they do not have "land title" as per the national law. But, the land they are presently settling are also claiming by an individual and once their huts and houses were destroyed using dozes. As they came to know about their rights over lands they have protested against such kind of acquisition and encroachments. Because of protests ...Santhals were arrested under false case. Still the case against the Santhal leaders are going on. IPHRDs and NEFIN district chapter are supporting to them legally and also some local organisations assisted to rebuilt houses and to access electricity in the settlement.

2.1.3. Baram Case: Special Protected and Autonomous Region

The 2015 Constitution of Nepal provisioned for "Special, Protected or Autonomous regions for the development of social-cultural protection

and economic development"¹. However, the government failed to maintain the provision ensured by the constitution during the state restructuring process. Baram indigenous peoples from Gorkha district has filed a case to the Supreme Court demanding the same rights ensured by the constitution. The court issued directives on 2075 Poush 16 BS in the name of the government to formulate laws to ensure Special, Protected and Autonomous region of Baram community.² The verdict of the SC set precedents for the other indigenous communities in Nepal. On the basis of this precedent IPs in Nepal can claim and establish special, protected and autonomous regions for their socio-cultural protection and economic development.

2.1.4. Sindhuli: public offense case against the IPs leaders

The case of public offense was filed against the chair Surendrashwor Moktan and the vice-chair Ukta Bahadur Thapa of the struggle committee of the 220 kV Khimti-Dhalkebar Transmission Line Project in Sindhuli district. Charges against them were of destroying of steel tower and damage of public properties. However, the allegation was not proved and the Appeal court issued decision in the favor of those alleged leaders. The decision of the appeal court reads: Since there was no eye witness and no evidence to prove there is no reason to the have different decision

¹ The Constitution of Nepal, 2015, Art. 56(5).

² Bhuvan Barami v Office of the Prime Minister and the council of the Ministries, Writ No.: 074-WO-0239.

other than the decision of the district court³. The Sindhuli district court had made the decision in favor of the community leaders.

2.2. Complaints to the international grievance mechanism

During the reporting period LAHURNIP has supported to the communities to file complaints to the international financial institutions' complaint mechanisms as which have been funding and supporting to the various development projects in Nepal and those projects have adverse impacts to the indigenous and local communities. Accountability counsel assisted in the process to the LAHURNIP and communities.

2.2.1. 220 kV Marsyangdi Corridor Transmission Line Project

The affected communities of the Marsyangdi Corridor Transmission Line Project filed a complaint to the European Investment Bank (EIB) regarding its adverse impacts to the indigenous and local communities where there has not been FPIC with the affected indigenous communities and no consultation held with the affected communities. The EIB is the funding agency for the project. Following are the major demands of the affected communities⁴:

³ Government of Nepal District Administration Office Sindhuli v Surendrashwor Muktan et. al, Writ No. : 075-CS-1537, Decision No.: 556, Date of decision 2075/9/5

⁴ Complaint submitted to the European Investment Bank Complaint Mechanism on 9 August 2018.

- a. Incorrect geographic coordinates for the location of the transmission line
- b. Failure to consult with people under the transmission wires
- c. Analysis for route selection was not done properly
- d. Public safety impacts were not properly addressed
- e. Inadequate assessment of existing flora and fauna in the area
- f. Impacts to forests do not appear to be credibly minimized
- g. Assessment of the project should be done holistically, rather than small parts separately
- h. Failure to look at cumulative impacts from all projects in Lamjung
- i. Failure to conduct a Strategic Environmental Assessment
- j. Failure to follow international and domestic law etc.

After filing the complaint the EIB team has made field visits and prepared the preliminary report.

2.2.2. Road Kathmandu valley road expansion project

The road expansion and widening project affected communities in Kathmandu filed compliant to the ILO office in Geneva. The project is expected to have direct adverse impact to more than 150000 individuals in Kathmandu valley. Apart from that the project affects cultural sites

and heritages, temples, schools and other archeological sites which have historical importance for the affected Newar community and the nation. Following are the major demands raised by the communities in the complaint submitted to the ILO office in Geneva:

- No environmental and social impact statement was prepared as required by section 3 of the Environment Protection Act 1997, nor was any consultation taken on the plans, routes or alternatives to road-widening;
- No official notice of the road expansion was published in the Gazette, as required by section 3 of the Public Roads Act 1971;
- Notices of acquisition of land were not given to residents whose houses and/or lands were proposed to be included, as required by section 9 of the Land Acquisition Act.

The complaint submitted to the ILO office was accepted by the governing body of the ILO and communicated to the community regarding formulation of the tri-partite committee to look into the issue.

2.3. Plan and Policy Intervention

Policy intervention is one of the major areas LAHURNIP has been working since its inception.

2.3.1. 15th Five year Plan

The government of Nepal has been preparing the 15th five year plan. The LAHURNIP, Nepal Federation of Indigenous Nationalities (NEFIN), National Indigenous Women's Federation (NIWF), Youth Federation of Indigenous Nationalities (YFIN), Federation of Nepalese Indigenous Journalists (FoNIJ), Nepal Indigenous Disabled Association (NIDA) and National Foundation for Development Indigenous Nationalities (NFDIN) have intensely worked on the IPs propose draft five year plan. The draft has been submitted to the national planning commission (NPC) and other relevant institutions from federal to provincial levels. Some of the issues and programmes are accommodate in the concept paper of the plan prepare by the NPC. Following are some of the major issues accommodated in the concept paper of the plan:

- Promote Cooperative sector for access to finance and economic social inclusion
- Reformation of the existing laws and policies to support to use of the traditional knowledge, entrepreneurship and innovation.
- Develop women and youth groups to entrepreneur groups at the local level

- Operate targeted programmes to develop skills and capacity of women entrepreneurs and assist on management.
- Promote to enhance capacity and entrepreneurs of disabled persons.
- Based on potentiality of locally available resources and skills and market demands promote and develop small scale industries
- Supporting to the marginalised and victims of food security to affiliate to cooperatives to ensure food availability.
- Establish rehabilitation centers focusing on livelihood programs for those freed Kamaiya and Haliya and accomplish division of land between Mohi and land owner.
- Register the lands which are not registered
- Prepare an inventory of cooperative, public, community and Guthi land establishing map and measurement directorate in each and every province.
- Formation of cooperatives accommodating women, Dalits, indigenous and local communities lead consumers groups and increase capital under the partnership of community, government and private sector and establish a congenial environment for

forest and forest products based tourism and wood furniture industries.

- Reform in accordance and implement the gender and social inclusion strategy on forest sector, community forests and management of forests.
- Record and register the traditional knowledge, skills, practices, socio-cultural practices, art, intellectual properties of indigenous nationalities and local communities pertaining to their biological diversity available to all local levels.
- Held study and develop endemic plants and herbs available in Nepal
- Strengthen legal and institutional management to protect and promote industrial intellectual property.
- Establish processing centre of herbs and precious and semi-precious stones available in the Himalayan region of Nepal.
- Establish collection and processing centers of Allo, Banana, Bet, Bamboo and other natural fibers for promotion of entrepreneurship and provide technical support.

- Develop necessary infrastructure for production, collection and marketing of local productions.
- Take necessary steps for protection of intellectual property of products made based on local and traditional knowledge and skills.
- Operate special programmes and institutionalise for protection of marginalised and endangered ethnic groups (Raute, Kusunda, Chepang, Rajbanshih, Chamar, Musahar, Badi, Raji etc.)
- To ensure compulsory and free education for all manage residential and special education for vulnerable, minorities and endangered communities students.
- Operate schools with residential facilities for marginalised and endangered communities' students.
- Implement Student Financial Assistant System for Multi Disadvantaged, marginalised, socio-economically backward, disabled and deprive of attaining formal education citizens for their necessity and vocational education and equitable skill developments

- Identify necessary process for access to governance, meaningful participation, empowerment and ownership of inclusion sector (Women, Dalit, Indigenous Nationalities, Senior citizen, child, youths disabled and peasants).
- Promote and develop Kathmandu as federal headquarters protecting its historical, natural and cultural heritages.
- Provide secure housing for poor, endangered, highly marginalised ethnic communities, ethnicity and urban poor.
- Informative programme are produced, broadcast and disseminated about Nepal's ethnic, linguistic, gender regional and cultural diversity.
- Ensure rights of poor, marginalised and backward class.
- Formulate necessity laws to ply role obliged by their international obligations based on the research study of international contracts that Nepal is party to
- Facilitate and coordinate the roles and responsibilities of various commissions and foundations formed to protect social, economic, cultural diversity and inclusion provisioned in the Constitution.

- Run Social mobilisation, awareness and interactions for unity in diversity among the geographical, social, economic, cultural diversity.
- **Identify formulate and operate Special, Protected and Autonomous regions as provisioned in the constitution and local level operation Act.**
- **Generate and analyse and make available of disaggregated data based on geography, gender, social and subject characteristics**
- **Run capacity development, income generation and employment programmes focusing to back ward region and poor households of communities, minority, endangered communities, back ward citizens**
- Increase access to available resources of women, indigenous nationalities, Dalits, Madhesi, Muslim community,
- Run economic and social development programme for marginalised and back region citizens
- Ensure meaningful participation in political, social and administrative sector of economically, socially and

geographically back ward citizens through positive discrimination and reservation

- Enhance capacity through skill development training for economically and socially back ward targeted groups so that they could be capable of enjoying opportunities of employment available at federation, provinces and local levels
- Run awareness programme with the participation of concerned group for protection and promotion of endangered languages of various ethnic groups and communities through necessary study, replicating good practices
- Run program to enhance respect to all communities' religious and cultural norms and values
- Protection and record of endangered cultures
- protection of traditional guthis system and review the whole system of religious guthis and manage to run in new context
- Classification of working areas of federation, province and local level identifying protection indicators for tangible and intangible cultural heritages

- Formulation of master plan and its implementation focusing sustainable development and management of religious, cultural, traditional, historical and archeological heritages
- Protection and promotion of religious, cultural, traditional, historical civilisations etc.

2.4. Lobby and advocacy

Lobby and advocacy from the local to the federal level is one of the major areas of interventions of the LAHURNIP to ensure the rights of indigenous and local communities ensured by the national and international legal instruments. Various initiatives have been taken by the LAHUNIP in policy reform and formulation of the IPs friendly laws and policies. Following are some of the achievement during the reporting period:

2.4.1.1. National level Alliance

A national alliance was been established to deal policy level issues of indigenous peoples. The national accommodates seven organisations such as Indigenous Commission, Tharu Commission, National Foundation for the Development of Indigenous Nationalities, National Human Rights Commission, Nepal Federation of Indigenous Nationalities, Ministry of Federal Affairs and General Administration. The alliance has been working on policy review and national action plan

on the implementation of ILO Convention No. 169. Reviewed policies have been submitted to the respective ministries and authorities to accommodate IPs rights as various policies in the process of either amendment or formulation. A sub-committee has formed. Apart from that the national alliance is also intended to work on the issues of Sustainable Development Goals (SDGs).

2.4.1.2. Upper Trishuli hydropower project

LAHURNIP had dealt with the issues of Upper Trishuli-1 hydropower project from the very beginning. It has also conducted a research and organized several meeting and training to the affected community members. The study apparently discovered that several rights of the indigenous Tamang communities have been violated by the project in the implementation process. However, no effective measures had taken to minimize the adverse impacts to the affected communities.

Recently, the NEFIN is dealing with the case including the FPIC process with the affected communities. However still there are dissatisfaction and division within the community regarding the FPIC process.

3. Publications

The Base Line Factsheet on the Situation of Indigenous People of Nepal, Khas-Nepali translation of the concluding observations of the Committee on the Elimination of Racial Discrimination to Nepal on

Indigenous Peoples' issues, Annual Report, 2018 and the Calendar of 2076 are the major publication in the reporting period.

4. Financial Report

BRS Neupane & Co.
Chartered Accountants
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**BRS Neupane
& Co.**

INDEPENDENT AUDITOR'S REPORT

To the Members of Lawyer's Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP)

Opinion

We have audited the financial statements of Lawyer's Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), which comprise the Balance Sheet, Income and Expenditure Statement and Significant Accounting Policies and Notes to Account for the year ended 31st Ashad 2076 (corresponding to 16th July 2019).

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the organization as at 16th July 2019, and its financial performance for the year then ended in accordance with Generally Accepted Accounting Principles.

Basis of Opinion

We conducted our audit in accordance with Nepal Standards on Auditing (NSAs). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statement of our report. We are independent of the organization, and we have fulfilled our other ethical responsibilities. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Responsibilities of Management for the Financial Statement

Management is responsible for the preparation of the financial statement in accordance with Generally Accepted Accounting Principles (GAAP), and for such internal control as management determines is necessary to enable the preparation of financial statement that are free from material misstatement, whether due to fraud or error.

In preparing the financial statement, management is responsible for assessing organization's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the organization or to cease operations, or has no realistic alternative but to do so.

Management is responsible for overseeing the organization's financial reporting process.

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Auditor's Responsibilities for the Audit of the Financial Statement

Our objectives are to obtain reasonable assurance about whether the financial statement as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with NSAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statement.

Anup K. Shrestha

CA Anup K. Shrestha
Managing Partner



Place: Kathmandu, Nepal
Date: 15th October, 2019

Lawyers' Association for Human Rights of Nepalese Indigenous Peoples
Balance Sheet
As on 31st Ashad 2076

Particulars	Sch.	Current Year (NPR.)	Previous Year (NPR.)
Liabilities			
Accumulated Fund Balance		23,971,560.99	20,861,396.09
Current Liabilities			
Payables	26	680,865.00	516,410.73
Total		24,652,425.99	21,377,806.82
Fixed Assets			
Office Assets and Furniture	N/A	-	52,500.00
Less: Charged to Expenses		-	(52,500.00)
Current Assets			
Cash	23	24,869.78	4,010.00
Bank	24	23,128,366.21	21,089,796.82
Receivables/Advances	25	1,499,190.00	284,000.00
Total		24,652,425.99	21,377,806.82

Significant Accounting Policies and Notes to-Accounts 27

Schedule and explanatory notes form an integral parts of Financial Statement
As per our report of even date


Asim Sunuwar
Admin & Finance Officer


Advocate Bhim Rai
Treasurer


Tahal Thami
Director




CA. Anup K. Shrestha
Managing Partner
BRS Neupane & Co.
Chartered Accountants

Date: October 10, 2019
Place: Kathmandu, Nepal



Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP)
Income and Expenditure Statement
For the year ended 31st Ashad 2076

Particulars	Sch.	Current Year (NPR.)	Previous Year (NPR.)
Income			
Grant Income	20	19,164,504.72	32,309,411.88
Contribution from Members	21	212,244.00	12,450.00
Interest Income	22	307,460.40	213,151.73
Total Income		19,684,209.12	32,535,013.61
Expenditure			
Programme Cost (A)			
LAHURNIP (CORE Fund)	1	22,724.00	-
Corporate Social Responsibility (CSR)	2	1,219,051.00	7,417,393.50
Follow-up of National Policy Dialogue	3	865,428.00	-
Ips' Navigator (Pillar-3)	4	1,413,607.00	859,195.00
Defending Ips' lands rights in Nepal (IWGIA)	5	5,405,835.00	230,000.00
Ips' Navigator (Pillar- 1 & 2)	6	3,463,199.00	2,674,264.00
Emergency Fund to IPHRD-I	7	335,510.00	-
Emergency Fund to IPHRD-II	8	504,600.00	-
Promoting Ips' lands rights in Nepal (KIOS)	9	980,820.00	-
GGF-I	10	-	680,198.00
GGF-II	11	-	513,355.00
Governance Facility (GF)	12	-	1,392,500.00
RoLHR	13	-	1,891,709.90
UUSC-II	14	-	1,671,272.00
National Policy Dialogue	15	-	67,800.00
3-days workshop on Ips' lands rights	16	-	521,380.00
National Consultation on CERD	17	-	204,636.00
Total Programme Cost (A)		14,210,774.00	18,123,703.40
Administrative Cost (B)			
LAHURNIP (CORE Fund)	1	223,770.00	139,364.34
CSR	2	565,381.00	2,876,521.00
Pillar-3	4	137,080.00	-
Defending Ips' lands rights in Nepal (IWGIA)	5	732,182.00	30.00
Pillar- 1 & 2	6	346,191.52	291,045.00
Promoting Ips' lands rights in Nepal (KIOS)	9	347,961.00	-
Governance Facility (GF)	12	-	393,370.00
RoLHR	13	-	675,810.00
UUSC-II	14	-	768,895.00
SIPHRN-II	18	-	42,988.89
Prior Period Adjustment	19	10,704.70	-
Total Administrative Cost (B)		2,363,270.22	5,188,024.23

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Particulars	Sch.	Current Year (NPR.)	Previous Year (NPR.)
Total Expenditure (A+B)		16,574,044.22	23,311,727.63
Surplus fund balance over expenditure		3,110,164.90	9,223,285.98
Surplus fund carried from pervious Year		20,861,396.09	11,638,110.11
Surplus fund balance for next year Transferred to Balance Sheet		23,971,560.99	20,861,396.09


 Asim Sunuwar
 Admin & Finance Officer


 Advocate Bhim Rai
 Treasurer


 Tahal Thami
 Director



Date: October 10, 2019
 Place: Kathmandu, Nepal


 C.A. Anup K. Shrestha
 Managing Partner
 BRS Neupane & Co.
 Chartered Accountants



Application of Funds

LAHURNIP Core Fund

Schedule-1

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Admin Cost		
Audit Fee	175,150.00	36,111.11
General Assembly Expenses	48,610.00	-
Connect IPS Charge	10.00	-
Miscellaneous Expenses	-	1,313.23
Projector	-	44,500.00
Office Rent	-	57,440.00
Total	223,770.00	139,364.34
Program Cost		
KIOS Project-Core Fund Expense	22,724.00	-
Total	22,724.00	-
Total	246,494.00	139,364.34

Corporate Social Responsibility (CSR)

Schedule-2

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Office Administrative Cost (A)		
Projector Coordinator Salary	231,000.00	1,386,000.00
Project Assistant Salary	105,000.00	630,000.00
Staff Benefits	-	5,000.00
Office Rent	42,000.00	252,000.00
Office Expenses	63,318.00	285,517.00
Communication	9,363.00	63,964.00
Transportation	9,700.00	149,040.00
Audit Fee	105,000.00	105,000.00
Laptop/ Computers	-	-
Printer	-	-
Video Recorder	-	-
Total (A)	565,381.00	2,876,521.00
Programme Cost (B)		
Training of representatives from Ips organizations and communities in Nepal	-	-
National Workshop in Nepal	-	96,776.00
Meeting of the Ips CSR Network in Nepal	575,406.00	-
Community Trainings and Consultations in Nepal	41,500.00	1,118,456.00
Support to the IP CSR Network members (Advocacy and Provide support to communities)	323,794.00	5,375,579.00
Advocacy Materials	-	826,582.50
Multi-stake holders dialogues in Nepal	278,351.00	-
Total (B)	1,219,051.00	7,417,393.50
Grand Total (A+B)	1,784,432.00	10,293,914.50

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Followup of National Policy Dialogue

Schedule-3

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Program Costs		
Preparatory meeting	5,410.00	-
Project Audit Fee	57,600.00	-
Papers Presentation	80,000.00	-
Communication and Coordination	10,000.00	-
Stationery and Photocopy	41,385.00	-
Transportation	11,550.00	-
Moderator	10,000.00	-
Reporter	74,000.00	-
Part-time staff	115,200.00	-
Food for the program	460,283.00	-
Total	865,428.00	

Ips' Navigator (Pillar-3)

Schedule-4

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Administrative Cost(B)		
Project Overhead(OH)	7,704.00	-
Office Rent	129,376.00	-
Total	137,080.00	-
Program Expenses:		
Participatory community workshops to identify and prioritise needs and develop concrete pilot project proposals, including advise and follow up on project implementation by national implementing partners.	558,457.00	787,850.00
Training and workshops for community leaders and local indigenous authorities on monitoring of public policies and budgets and lobbying of local governments for policy and programme change as well as fundraising. Including production and/or localisation	-	-
Implementation of innovative pilot projects in target communities/territories/districts with the aim to improve indigenous peoples' access to rights-based, culturally adequate and participatory social services and social protection.	-	-
Dialogue meetings between community leaders and relevant duty bearers and stakeholders to seek alliances and cooperation on project implementation and co-financing.	-	-
Consolidation of findings, production and dissemination of cases material to relevant policy and programme makers at local and national level (video, audio, reports, info/graphics, press-releases and meetings), documenting learning experiences and models	150,000.00	71,345.00




Human Resource Cost		
Project Coordinate (Part-time)	240,000.00	-
Project Assistant (part-time)	221,250.00	-
Admin & Finance Assistant (part-time)	243,900.00	-
External Monitoring & Evaluation Costs	-	-
Total	1,413,607.00	859,195.00
Grand Total	1,550,687.00	859,195.00

Defending Ips' Lands Rights in Nepal (IWGIA)

Schedule-5

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Administrative Expenses		
Office Rent and Utilities	234,375.00	
Electricity and maintenance	98,654.00	
Communication Expenses	60,869.00	
Local Travel Expenses	95,478.00	
Office Consumables	142,806.00	30.00
Audit Fee	100,000.00	
Total	732,182.00	30.00
Program Expenses:		
Review bills and policies related to lands by experts and provide feedback to the law makers	50,000.00	30,000.00
Operate IPs lands rights campaigns (awareness building, interaction, street drama, mobilization of IPs traditional institutions, multistakeholder dialogue, consultation meeting, fact finding mission on lands rights violations, human rights days' celeb etc)	1,266,622.00	
Public Interest Litigation / Strategic Litigations	60,000.00	
Development of training manual on land rights of IPs	300,000.00	
Training on land rights violation, documentation, and advocacy to IPHRDs IPOand Journalist	385,390.00	
Alternative disputes resolution (ADR) training	-	
International Lobby and Advocacy	-	
Carryout policy research relates to lan rights	200,000.00	
Publication of fact sheets, annual sheets and IEC materials	135,709.00	
Support to IPHRDs and mobilization (5 IPHRDs for 12 months)	424,000.00	
Internship and apprenticeship	30,000.00	
Carry out institutional development training	-	
Law mapping / policy analysis from the perspective of IPs women	-	200,000.00

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Conduct training on IPs women rights and discriminatory policy provision	350,000.00	
Awareness and advocacy activities at both local, provincial and federal level on Ips women land rights	284,114.00	
Monitoring and Evaluation	-	
Program Coordinator	960,000.00	
Admin & Finance Officer	696,000.00	
Office Assistant	264,000.00	
Total	5,405,835.00	230,000.00
Grand Total	6,138,017.00	230,030.00

Ips Navigator (Pillar 1 & 2)

Schedule-6

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Administration Cost (Project OH)	346,191.52	291,045.00
Total	346,191.52	291,045.00
Programme Cost (A)		
Inception workshops with local indigenous partner organizations to prepare country strategies and action plans	172,250.00	-
Training on the Indigenous Navigator framework for local indigenous partner organizations and other key stakeholders	86,400.00	734,701.00
Alliance building workshops with strategic partners for action	-	-
Baseline fact sheets for target countries	100,000.00	454,045.00
Country reports, case studies and briefs based on Indigenous Navigator data(2)	200,000.00	546,483.00
Communication and advocacy campaigns (country level)	-	-
Training to enhance the capacity of national and local	965,486.00	204,935.00
Dialogue workshops in target countries for engagement of indigenous peoples with national and international development actors	1,239,213.00	-
Human Resource Costs		
<i>Project Co-ordinator</i>	141,000.00	346,500.00
<i>Project Assitant</i>	382,750.00	176,100.00
<i>Admin & Fin Assistant</i>	176,100.00	211,500.00
Monitoring and Evaluation(2 times; mid & final term)	-	-
Total (B)	3,463,199.00	2,674,264.00
Grand Total (A+B)	3,809,390.52	2,965,309.00

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Emergency Fund to IPHRD-I

Schedule-7

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Programme Cost		
Awareness and Capacity Building Activities	335,510.00	-
Total	335,510.00	-

Emergency Fund to IPHRD-II

Schedule-8

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Programme Cost		
Expert and community consultation on preparing FPIC framework	107,600.00	-
Orientations to the affected community leaders to advance their negotiation skills considering the upcoming mediation.	397,000.00	-
Total	504,600.00	-

Promoting Ips' lands rights in Nepal (KIOS)

Schedule-9

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Administration Cost		
Office Rent	93,750.00	-
Office Expenses	54,211.00	-
Audit Fee	-	-
Admin & Finance Assistant	200,000.00	-
Total	347,961.00	
Program Cost		
Campaign on IPs lands rights	347,240.00	-
Conduct Multistakeholders dialogue	-	-
Training to IPHRDs on advocacy and human rights violation monitoring and community mobilization technique.	-	-
Conduct field research and factual testimonial documentation (dossier) on customary lands of IPs using indigenous research methodology.	83,580.00	-
Law & Policy Review & Mapping	-	-
Publication of cases of collective human rights violation	-	-
Support to IPHRD	-	-
Public Interest Litigation (PIL)-Support for case registration and lawyers	-	-
Monitoring and Evaluation (SWC)	-	-
Internal Monitoring	-	-
Program Coordinator	550,000.00	-
Total	980,820.00	-
Grand Total	1,328,781.00	




GGF-I		Schedule-10	
Particulars	Current Year (NPR.)	Previous Year (NPR.)	
Consultant Fee/Researcher	-	162,000.00	
Community support to organise themselves	-	44,050.00	
Community meeting/workshop	-	173,960.00	
Local Co-ordinators or Community Organizers	-	108,000.00	
Meeting Cost	-	25,499.00	
Other support to program	-	10,554.00	
Program Stationeries	-	7,500.00	
Publication of the report	-	116,485.00	
Travel And Accommodation	-	32,150.00	
Total	-	680,198.00	

GGF-II		Schedule-11	
Particulars	Current Year (NPR.)	Previous Year (NPR.)	
Participants food and accomodation	-	180,400.00	
Transportation	-	106,000.00	
Program Stationery & material	-	20,455.00	
Resource Persons Costs	-	176,000.00	
Monitoring & Evaluation	-	30,500.00	
Total	-	513,355.00	

Governance Facility (GF)		Schedule-12	
Particulars	Current Year (NPR.)	Previous Year (NPR.)	
Administrative Costs			
Travel (Air & Ground Transportation)	-	148,000.00	
DSA (Bardiya)	-	9,000.00	
DSA (Mustang)	-	148,500.00	
Research Team Meeting	-	18,000.00	
Communication	-	10,000.00	
Stationery	-	10,070.00	
FGD/Community Meeting	-	49,800.00	
Total	-	393,370.00	
Program Costs			
Researchers Fees	-	1,000,000.00	
Local Research Assistant (Bardiya)	-	50,000.00	
Local Research Assisant (Mustang)	-	62,500.00	
Project Coordinator (Part time)	-	175,000.00	
Admin & Finance Assistant (Part Time)	-	105,000.00	
Total	-	1,392,500.00	
Grand Total	-	1,785,870.00	

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RoLHR		Schedule-13	
Particulars	Current Year (NPR.)	Previous Year (NPR.)	
Program Costs			
Program Support Project Coordinator	-	206,644.00	
Program Support Admin and Finance Officer	-	123,984.00	
Researchers Fees	-	1,394,844.00	
Local Research Assistant (Jhapa)	-	37,500.00	
Local Research Assistant (Panchthar)	-	50,000.00	
Research Team Meeting	-	25,151.00	
FGD/Community Training	-	53,586.00	
Total	-	1,891,709.00	
Administrative Costs			
Communication	-	20,900.00	
Stationery	-	20,830.00	
Travel	-	275,100.00	
DSA	-	144,000.00	
Editor's Cost	-	50,000.00	
Publication	-	102,830.00	
Audit Fee	-	62,150.00	
Total	-	675,810.00	
Grand Total	-	2,567,519.00	

Unitarian Universalist Service Committee (UUSC-II)		Schedule-14	
Particulars	Current Year (NPR.)	Previous Year (NPR.)	
Administrative Cost (A)			
Program Assistant(1)	-	245,000.00	
Admin. & Finance Assistant(1)	-	245,000.00	
Office Rent and Utilities	-	70,000.00	
Communication Expenses	-	14,000.00	
Transportaion	-	14,100.00	
Office Consumable Expenses	-	35,795.00	
Benefits to the Staff	-	70,000.00	
Audit Fee	-	75,000.00	
Total (A)	-	768,895.00	
Programme Cost (B)			
Institutional management and fund raising training to board and staff members	-	175,999.00	
IPs rights campaign operation	-	422,902.00	
Carryout community seminars	-	367,366.00	
Carryout public Interest Litigation	-	30,000.00	
Publications	-	109,610.00	
Support to 2IPHRDs	-	140,000.00	
Review and reflection meeting	-	155,571.00	
Monitoring	-	119,824.00	

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Evaluation	-	150,000.00
Total (B)	-	1,671,272.00
Grand Total (A+B)	-	2,440,167.00

National Policy Dialogue **Schedule-15**

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Program Expenses:		
Preparatory Phase Meeting Expense	-	-
Conduct High Level National Policy Dialogue	-	-
Documentation	-	-
Production of Video Document	-	-
Dissemination	-	-
Monitoring/ Evaluation	-	-
Overhead Expense	-	-
Audit Fee	-	67,800.00
Total	-	67,800.00

3-Days workshop Ips'lands rights **Schedule-16**

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Program Expenses:		
Workshop Expenses	-	521,380.00
Total	-	521,380.00

National Consultation for Alternative Report of CERD **Schedule-17**

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Program Expenses:		
Preparation meeting and consultation	-	17,715.00
Stationery	-	18,750.00
Food and Snacks for the program	-	135,171.00
Transportation and Communication	-	27,000.00
Report finalization meeting	-	6,000.00
Total	-	204,636.00

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Strengthening Indigenous People's Rights in Nepal (SIPHRN-II)

Schedule-18

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Administrative Cost (A)		
Program Coordinator (1)	-	-
Admin. & Finance Officer (1)	-	-
Office Assistant (1)	-	-
Office Rent and Utilities	-	-
Office Consumable Expenses	-	-
Audit Fee	-	42,988.89
Total (A)	-	42,988.89
Programme Cost (B)		
Conduct one day interaction in one province on political participation, self-rule and autonomy	-	-
Leaflet development on political participation, self-rule and autonomy	-	-
Carry out public interest litigation	-	-
Provide monthly remuneration to 5- IPHRDS	-	-
Total (B)	-	-
Grand Total (A+B)	-	42,988.89

Prior Period Adjustment

Schedule-19

Particulars	Current Year (NPR.)	Previous Year (NPR.)
Administrative Cost (A)		
Fund Transferred to EIDHR	1,647.00	-
Fund transferred to Emergency Fund -I	262.00	-
Fund transferred to KIOS	85.57	-
Fund transferred to Emergency Fund -I	382.20	-
Fund Transferred to Defending Ips' lands rights	8,327.93	-
Total (A)	10,704.70	-




Grant Income

Project	Schedule-20	
	Current Year (NPR.)	Previous Year (NPR.)
LAHURNIP (Core fund)	21,394.68	130,418.50
Prior Period Adjustment	(2,271,707.47)	(539,752.04)
CSR Project (IWGLA)	-	10,545,091.33
GF (Governance Facility)	417,720.00	1,368,150.00
Follow-up National Policy Dialogue (IWGLA)	867,075.00	-
Ips' Navigator Pillar-3 (AIPP)	7,040,227.30	6,452,118.00
Defending Ips' lands rights in Nepal (IWGLA)	6,518,472.71	5,038,962.69
Ips' Navigator Pillar-1 & 2 (AIPP)	-	6,020,505.30
EIHRD Network Project (AIPP)	2,260,295.50	-
Emergency Fund to IPHRD-I (AIPP)	267,840.00	-
Emergency Fund to IPHRD-II (AIPP)	399,600.00	-
Promoting Ips' lands rights in Nepal (KIOS)	3,311,307.00	-
SEE Project (SEE)	332,280.00	-
RoLHR	-	2,567,519.90
Three-days Workshop on Ips' lands rights	-	521,380.00
National Consultation on CERD	-	205,018.20
GGF-I	-	-
Total	19,164,504.72	32,309,411.88

Contribution from Members

Project	Schedule-21	
	Current Year (NPR.)	Previous Year (NPR.)
LAHURNIP (Core Fund)	189,520.00	12,450.00
LAHURNIP's contribution to KIOS	22,724.00	-
Total	212,244.00	12,450.00

Interest Income

Project	Schedule-22	
	Current Year (NPR.)	Previous Year (NPR.)
Pillar-3 (Kumari Bank)	307,460.40	198,731.24
SIPHRN Project-II	-	8,205.94
Defending Ips' Lands Rights	-	6,214.55
Total	307,460.40	213,151.73

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Cash Balance**Schedule-23**

Project	Current Year (NPR.)	Previous Year (NPR.)
Pillar 3	24,485.00	-
Pillar 1 & 2	384.48	-
CSR	-	4,010.00
Total	24,869.48	4,010.00

Bank Balance**Schedule-24**

Bank	Current Year (NPR.)	Previous Year (NPR.)
Prime Bank (GGF-I)	-	262.00
MBL Bank (Cord Fund)	357,872.12	31,661.44
Rastriya Banijya Bank (GF)	-	3,230.30
Himalayan Bank (UUSC-II)	-	5,089.57
Rastriya Banijya Bank (Followup National Policy Dialogue)	-	0.30
Kumari Bank (Pillar-3)	11,230,843.94	5,730,671.24
Global IME Bank (Ips' lands rights)	4,849,922.88	4,861,041.92
Kumari Bank (SIPHRN-II)	-	8,327.93
Prime Bank (National Consultation CERD)	-	5,882.20
Nabil Bank (Pillar 1-2)	2,577,930.70	6,570,455.70
Rastriya Banijya Bank (EIDHR Network Project)	2,264,942.80	-
Prime Bank (Emergency Fund-I)	6,184.20	-
Prime Bank (Emergency Fund-II)	26,300.00	-
Himalayan Bank (KIOS)	1,582,089.57	-
Prabhu Bank (SEE)	232,280.00	3,873,174.22
Total	23,128,366.21	21,089,796.82

Receivable/Advance**Schedule-25**

Project	Current Year (NPR.)	Previous Year (NPR.)
LAHURNIP (Core Fund)	67,710.00	-
Pillar-3	347,000.00	90,000.00
Defending Ips' lands rights (IWGLA)	354,730.00	-
Pillar- 1& 2	187,750.00	5,000.00
Promoting Ips' lands rights (KIOS)	432,000.00	-
SEE	110,000.00	-
CSR	-	189,000.00
Total	1,499,190.00	284,000.00

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Payable	Schedule-26	
Project	Current Year (NPR.)	Previous Year (NPR.)
LAHURNIP (core)	429,500.00	-
GF	-	420,950.30
CSR	-	10,044.75
UUSC-II	-	5,004.00
Pillar-3	13,674.00	29,017.00
Defending Ips' lands rights (IWGIA)	9,049.93	45,894.68
National Consultation CERD	-	5,500.00
EIDHR Network	4,647.30	-
Emergency Fund to IPHRD-I	73,854.20	-
Emergency Fund to IPHRD-II	131,300.00	-
Promoting Ips' lands rights (KIOS)	8,839.57	-
SEE	10,000.00	-
Total	680,865.00	516,410.73

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1. The Company

Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) is a pioneer organization of human rights lawyers working for the rights of Indigenous Peoples (IPs) in Nepal. LAHURNIP was registered in 1995 under Institution Registration Act 1967 by the professional Indigenous lawyers with the objectives of ensuring social justice through legal service.

The primary objective of LAHURNIP is to promote, protect and defend human rights and fundamental freedoms of indigenous people in Nepal.

2. Significant Accounting Policies

2.1 Basis of Preparation

Financial statements are prepared in accordance with the generally accepted accounting principles. Except where otherwise stated, they are based on cash basis of accounting. These policies have been consistently applied during the year presented unless stated otherwise for the preparation of Fund Accountability Statement (FAS).

2.2 Use of Estimates

The preparation of financial statements requires the management to make estimates and assumptions that are considered while reporting amounts of assets and liabilities (including contingent liabilities) as of the date of the financial statements and income and expenses during the reporting period. Management believes that the estimates used in the preparation of the financial statements are prudent and reasonable. Future results could differ from these estimates. Any revision to accounting estimates is recognized prospectively in current and future periods.

2.3 Prior Period Adjustment

Prior period adjustment of fund transfer of NPR 22,71,707.47 has been made in grant income, since it has already been booked as grant income in the previous year in order to avoid the double booking of the grant income.

NPR 22,71,707.47 has been transferred to 'Defending IPs' Lands Rights in Nepal' project from phased out project CSR of the same donor IWGIA.

Similarly, prior period adjustment of fund transfer of NPR 10,704.70 has been made in administrative expenses, since it has already been transferred in respective banks in order to avoid the double transactions.

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2.4 Grant / Contribution Income

Grant Income of NPR 19,164,504.72 has been recognized during the year which includes NPR 5,113,840.24 received from International Work Group for Indigenous Affairs (IWGIA) for different projects, NPR 417,720.00 has been received from Governance Facility (GF), NPR 3,311,307.00 from KIOS, NPR 332,280.00 received from SEE, NPR 9,967,962.80 received from AIPPF and NPR 21,394.68 has been received for LAHURNIP core.

Contribution amounting to NPR 212,244.00 has been received as contribution from members of LAHURNIP for its core expenses.

2.5 Interest Income

The total interest income of NPR 307,460.40 has been received from Kumari Bank under the project IPs' Navigator (Pillar-3) Project.

2.6 Fixed Assets

No fixed assets have been purchased during the fiscal year 2075/76.

2.7 Cash Balance

Total cash balance of NPR 24,869.48 has been found under the different projects Pillar-3 and Pillar 1 & 2 amounting NPR 24,485.00 and NPR 384.48 respectively.

2.8 Bank Balance

Bank balance of NPR 23,128,366.21 includes following:

Bank	Amount (NPR)
MBL Bank (Core Fund)	357,872.12
Kumari Bank (Pillar-3)	11,230,843.94
Global IME Bank (Defending Ips' lands rights)	4,849,922.88
Nabil Bank (Pillar 1-2)	2,577,930.70
Rastriya Banijya Bank (EIDHR Network Project)	2,264,942.80
Prime Bank (Emergency Fund-I)	6,184.20
Prime Bank (Emergency Fund-II)	26,300.00
Himalayan Bank (KIOS)	1,582,089.27
Prabhu Bank (SEE)	232,280.00
Total	23,128,366.21



2.9 Advances

Advances balance at the year end is NPR 1,499,190.00 and details are given below:

Project	Amount (NPR)
LAHURNIP (Core Fund)	67,710.00
Pillar-3	347,000.00
Ips' lands rights (IWGIA)	354,730.00
Pillar- 1 & 2	187,750.00
Promoting Ips' lands rights (KIOS)	432,000.00
SEE	110,000.00
Total	1,499,190.00

2.10 Payables

Payables balance at the year end is NPR 680,865.00 and details are given below:

Project	Amount (NPR)
LAHURNIP (core)	429,500.00
Pillar-3	13,674.00
Ips' lands rights (IWGIA)	9,049.93
EIDHR Network	4,647.30
Emergency Fund to IPHRD-I	73,854.20
Emergency Fund to IPHRD-II	131,300.00
Promoting Ips' lands rights (KIOS)	8,839.57
SEE	10,000.00
Total	680,865.00

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5. Conclusion

The indigenous peoples of Nepal are facing various problems pertaining to lands, territories and natural resources. Illegal land acquisition and encroachments are rampant across the country in the name of development activities. Huge projects, such as hydropower development, road construction and expansion are going on in the lands and territories without FPIC and justifiable compensations.

Apart from that such project damage and destroy cultural heritages and historical sites of indigenous peoples where no measures are taken by the private sector and government to minimise impacts and protect such sites.

The ILO Convention No 169 and the UNDRIP explicitly states about the rights of the IPs on their lands and territories and the government of Nepal is signatory and party to those international instruments. How there is lack of due implementation of those international instruments in the context of Nepal.

Non-compliance with the aforementioned international instruments severely impact to the lands and territories of IPs including their existence.

Annexes

Annex I: Decision of the Supreme Court

Supreme Court, Full Bench

Honorable Judge Kedarprashad Chalise

Honorable Judge Harikrishna Karki

Honorable Judge Purushottam Bhandari

Order

073-WF-0003

Subject: Certioraris, with writ

Petitioner:

1. Sanu Shrestha of Kathmandu District, Mahadevsthan VDC, Ward no. 1 (Currently Chandragiri Municipality, Ward no. 8)

Against:

1 Nepal Government, Office of the Prime Minister and Council of Ministers, Singhadurbar, Kathmandu

1Nepal Government, Ministry of Physical Infrastructure, Singhadurbar, Kathmandu

Defendant in Opposition

31...The Supreme Court has pointed out the need to balance between the government's responsibility of infrastructure development and civil rights. Similarly, the Supreme Court has also strongly brought to attention the fact that infrastructure development works should be done without bringing/creating adverse impacts on the environment, in accordance to international commitments on (environment) conservation. Section 36 of the Constitution points toward the need to respect the right to housing. In its principles, the Supreme Court has reflected the fact that it is unexpected of the government, various bodies and officers, who are bound to the legal proceedings that is based on democratic values and principles, use their power to forcefully intervene on private property.

32. It has been observed that although the principles have been developed and established by the Supreme Court, work that defy these principles, as established by the Supreme Court, continue to violated the civil rights, adversely affect the environment and adversely affect the objects and sites of archeological importance. These issues have been raised and relevant cases have reached and are under consideration at the Supreme Court and High Court, while such cases continue being filed. To acknowledge and stress on the importance of it, this court has sent this case from the joint bench to full bench. Along with these issues, when deprived of the right to property, other rights guaranteed by the constitution are also directly affected. These rights include the rights to mobility and settlement through Nepal or migrate to other parts of the country, right to work, seek employment, run and own businesses with freedom, as dictated in section 17(e) and (f), right to clean environment as dictated in section 30, right to housing in section 37. On a broader spectrum, the right to education section 31, right to religious freedom section 26, right to language and culture section 32 are also affected. It is

observed that ordinarily this serves injustice to the citizens belonging to communities that are economically deprived.

Full compliance to the constitution and the laws are under it and emulation of the principles established by the Supreme Court in infrastructure development would protect the rights of economically deprived communities as dictated in section 42(2) and (would increase civil participation and ownership of the citizens as stakeholders to result in timely completion of development projects. Observing with clarity that all citizens would reap the benefits of the infrastructures and the expenses caused due to delay in the development projects would decrease; the following directive orders are issues to for all acquisition of land from this point forth:

- g. Acquire land lawfully before marking the road boundaries since Section 4 of Public Road Act 2031 requires land acquisition to be done for road boundaries.
- h. Treat the act of depriving the right to housing as an extremely sensitive manner and do not proceed with any work that adversely affects the security of a house, unless there are no alternative solutions.
- i. In the event of road having to run through residential areas, consider the children's right to education and provide ample time to find alternative solutions to avoid adversely affecting them.
- j. Since talks are an easy, simple, effective and indisputable means of acquiring land, highly prioritize talks between expert groups and stakeholders to acquire land.
- k. --- The rights to relocation and re-housing of the displaced should be addressed equitably and benefits and compensation provided

as per sections 13, 16 of Land Acquisition Act 2034 and Land Acquisition Regulations 2026

1. Keep environment conservation and conservation of sites of archeological significance at the center of developing and executing a development project

Annex II: Base-Line Factsheets on the Situation of Indigenous Peoples of Nepal

Introduction:

Navigator project

The project "Implementation of Making the SDGs Work for Indigenous Peoples under the Indigenous Navigator Initiative in Nepal" intended to monitor the implementation of the SDGs at the national level and support to the prioritized/selected IPs to enhance their capacity to claim their rights at the local level under the 17 SDGs⁵. The project is implemented in 11 countries including Nepal. The Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) is the country partner of Nepal for the purpose of implementation of the project. National Coordination Group and National Expert Committee also formed to support implementation of the project. Pilot phase of project was implemented in Nepal by the LAHURNIP and National Indigenous Women's Federation (NIWF) from 1 October 2014 to 30 April 2016. Under the second phase of the project, pillar 1 and 2 is intended to conduct lobby & advocacy and capacity building at national level. The tenure of the project is 1 June 2017 to 31 May 2019. Under pillar 1 and 2, inception workshop, training for IPs representatives and data collections have been carried out. The pillar 3 (1 November 2017 to 30 September 2020) is intended to focus on community empowerment and their inclusivity at the local level. Preparations of baseline factsheet, country

⁵ Goal 1: No poverty, Goal 2: Zero Hunger, Goal 3: Good Health and Well-being, Goal 4: Quality Education, Goal 5: Gender Equality, Goal 6: Clean Water and Sanitation, Goal 7: Affordable and Clean Energy, Goal 8: Decent Work and Economic Growth, Goal 9: Industry, Innovation and Infrastructure, Goal 10: Reduced Inequality, Goal 11: Sustainable Cities and Communities, Goal 12: Responsible Consumption and Production, Goal 13: Climate Action, Goal 14: Life Below Water, Goal 15: Life on Land, Goal 16: Peace and Justice Strong Institutions, Goal 17: Partnerships to achieve the Goal.

strategy and preliminary assessment of pilot project implementing organisations have been completed to date.

Overview of the indigenous population

Social composition of Nepali population:

The total population of Nepal was 26,494,504 in 2011 census that comprised 125 caste/ethnic groups and 123 speech communities. About 36 percent of the population belongs to the Indigenous Peoples (IPs), which is almost 2 percent decrease to the population of 2001 census. The largest groups among IPs more than 0.4% of total population are Magar, Tharu, Tamang, Newar, Rai, Gurung, Limbu, Dhanuk, Kumal, Bhujel,

Sherpa and Rajbanshi. In census 2011, 64 indigenous peoples were enumerated including 13 new groups claiming indigenous status; still 6 groups (1.Jero, 2.Karmarong, 3.Limi, 4.Tukchulung, 5.Kathariya and 6. Rana Tharu) claiming indigenous status have not been reported.

Status of indigenous peoples: A total of 59 indigenous peoples/nationalities recognized by National Foundation for

Table 1: Social composition of Nepali population

Caste/Ethnic Group	Population	%
Hill Bahun/Chhetris	8,278,401	31.25
<i>Hill Bahuns</i>	3,226,903	12.18
<i>Hill Chhetris</i>	5,051,498	19.07
Dalits	3,604,948	14
Tarai Castes (34+ groups)	3,903,572	15
Indigenous Peoples (IPs)	9,487,642	36
Mountain and Hill IPs	7,211,178	27.22
<i>Magar</i>	1,887,733	7.12
<i>Tamang</i>	1,539,830	5.81
<i>Newar (Urban IP)</i>	1,321,933	4.99
<i>Rai</i>	620,004	2.34
<i>Gurung</i>	522,641	1.97
<i>Limbu</i>	387,300	1.46
<i>Other marginalised hill IPs (45 groups)</i>	931,737	3.53
Tarai IPs	2,276,464	8.59
<i>Tharu</i>	1,737,470	6.56
<i>Other Tarai IPs(12 groups)</i>	538,994	2.03
Others (Muslims, Sikhs+)	1,219,941	4.6
Total	26,494,504	100

Source: CBS, 2012 (Census 2011)

Development of Indigenous Nationalities (NFDIN) Act, 2002, of which 11 groups have not been reported in census 2011. **Nepal Federation of Indigenous Nationalities (NEFIN)** has classified indigenous peoples into five categories on the basis of their socio-economic status: 10 groups as endangered, 12 groups as highly marginalized, 20 groups as marginalized, 15 groups as disadvantaged and 2 groups as advanced. Government of Nepal has listed 55 indigenous groups (both recognized and not recognized) as minorities among the list of 98 minorities having population less than 0.5 percent each of the total population for the representation in local levels under special quota system in April 2017. They together form 13.17 percent of the indigenous population.

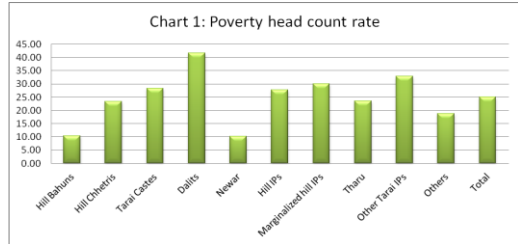
List of the recognized indigenous nationalities as categorized by NEFIN:

1. Endangered group: Kusunda, Bankariya, Raute, Surel, Hayu, Raji, Kisan, Lepcha, Mech, and Kusbadiya; *2. Highly marginalised group:* Majhi, Siyar, Lohmi, Thudam, Dhanuk, Chepang, Satar (Santhal), Jhagad, Thami, Bote, Danuwar, and Baramu; *3. Marginalised group:* Sunuwar, Tharu, Tamang, Bhujel, Kumal, Rajbansi, Gangai, Dhimal, Bhote, Darai, Tajpuriya, Pahari, Topkegola, Dolpo, Phri, Mugal, Larke, Lohpa, Dura, and Walung; *4. Disadvantaged group:* Chhaintan, Tangbe, Tinganule Thakali, Bargaule, Marphali Thakali, Gurung, Magar, Rai, Limbu, Sherpa, Yakkha, Chhantyal, Jirel, Byansi, and Yolmo; *5. Advanced group:* Newar and Thakali.

Clustering indigenous peoples for socio-economic analysis: For the convenience of socio-economic analysis of IPs they can be clustered into five groups- (1) Newar (urban IPs), (2) Hill IPs, (3) Marginalised hill IPs (3.5%), (4) Tharu and (5) other Tarai IPs (2%).

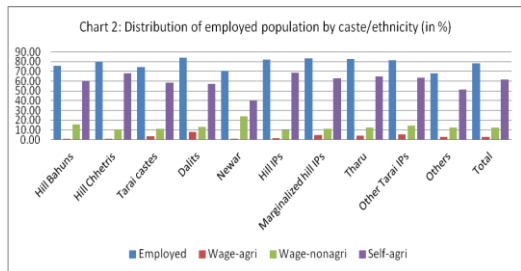
Socio-economic situation

Poverty: The extent, intensity and experiences of poverty across diverse castes and ethnicities vary widely and huge disparities can be seen in poverty incidences within indigenous groups also. The national poverty headcount rate for all Nepali population has been estimated to be



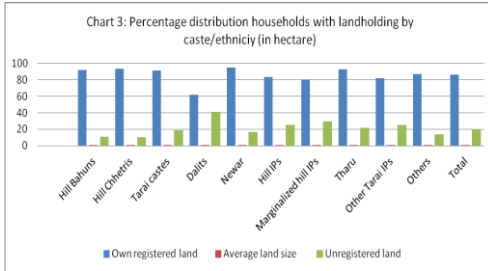
around 25 percent in 2010/11. Some 33 percent of Tarai IPs and 30 percent of hill marginalized IPS are living below the national poverty line, slightly better off than Dalits, whereas they are far poorer than Hill Brahmin and Newar (urban IP) whose such poverty rates are 10.3 percent and 10.2 respectively (*Chart 1, Source: National Living Standard Survey (NLSS) 2010/11, no such survey has been conducted since then*).

Livelihoods and employment: The Chart 2 reveals that 83 percent of the marginalized hill IPs, 82 percent of other hill IPs 82.5 percent of Tharus and 81.4 percent of other Tarai IPs are employed. Among employed, 63 percent to 68 percent hill IPs and 64 percent of Tarai IPs were employed in self-



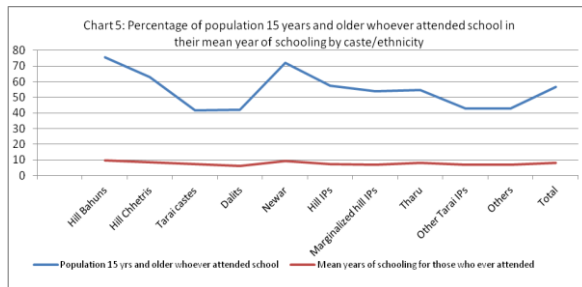
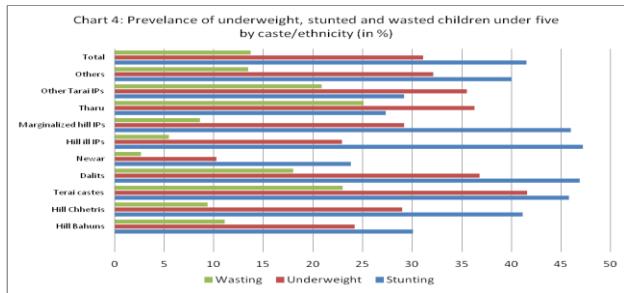
agriculture. Some 10-11 percent hill IPs and 12.6 percent to 14.5 percent Tarai IPs are employed in wage works in non-agricultural fields compared to 23.6 percent Newar (urban IP) and 15.5 percent hill

Brahmin in such employment as paid works in non-agriculture are limited to them (*Chart 2, Source NLSS, 2010/11*).



Access to land: About 80 percent marginalized hill IPs have lands of average 0.4166 hectares per household registered in their names, but 29.5 percent marginalized hill IPs, 25 percent hill IPs other than Newar and

another 25 percent of Tarai IPs other than Tharu possess lands not yet registered in their names (title to the lands not legitimated). Some 38 percent Tharu and 28 percent tarai IPs other than Tharu cultivate lands of others (*Chart 3, Source: Nepal Social Inclusion Survey (NSIS), 2012*).



Hunger/malnutrition: The prevalence of underweight children aged 6-59 months among Tharu and marginalized hill IPs is 36 percent and 29 percent respectively, highest prevalence rate

closer to Dalits. Marginalized hill IPs and other hill IPs have 46 percent and 47 percent stunting (low height for age) children under five years of age, the highest proportions. Tharu and other Tarai IPs have 25 percent and 21 percent respectively wasted (low weight for height) children under five years, highest prevalence rates among groups examined. (*Chart, 4 Source: NLSS 2010/11, data from Nepal Demographic and Health Survey, 2016 have not been used as disaggregated data by caste/ethnicity were not available*).

Education: In the 15 years and older population only 43 percent of Tarai IPs other than Tharus and 54 percent of hill marginalized IPs are literate. The gross enrollment rate of Tarai IPs other than Tharu in higher secondary education was 45.8 percent only and that of hill indigenous peoples other than Newar at this level was 58.7 percent to 62.9 percent (*Source: NLSS, 2010/11*). School Level Education Statistics of Nepal: consolidated report 2015 of Department of Education reveal that indigenous students (including Newar) share 29.3 percent of the total students at higher secondary school level. In the tertiary level, the gross enrollment rate of IPs students of different categories ranged from 5.6 percent to 8.8 percent compared to 49 percent of hill Brahmin and 40 percent of Newar (urban IP) which has demonstrated huge disparities in tertiary education. (*Chart 5, Source: NLSS 2010/11*).

National legal and policy framework

Ratifications/support to Convention No. 169 and UNDRIP: Nepal has ratified ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries on 14 September 2007 and adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on 13 September.

Constitutional safeguards of rights of indigenous peoples along with other several groups: (i) right to non-discrimination on the basis of ethnicity, language, religion, gender, social origin, physical disability or region (Article 18); (ii) right to adhere, practice, and protect one's own religion and defend and run religious sites and trusts (Article 26); (iii) right to free, compulsory, basic education and free education up to the secondary level and right to education in mother languages and run educational institutions (Article 31); (iv) right to participate in state organs (federal and provincial legislatures) on the basis of inclusive principles (Articles 42 and 283); and (vi) Indigenous Peoples Commission (Article 261) and (vii) Tharu Commission (Article 263) for the protection of rights and interests of indigenous peoples, including Tharus (*Source: Constitution of Nepal, 2015*).

Enactment of relevant laws: (i) Promulgation of Indigenous Peoples Commission Act, 2017 and Tharu Commission Act, 2017 that protect and promote rights and well-being of indigenous peoples and Tharus (Tarai Indigenous peoples) and monitor and supervise implementation of international agreements and conventions relating to indigenous peoples and Tharus; (ii) Enactment of Country Civil (Code) Act 2017 that makes discrimination punishable by three years imprisonment or thirty thousand rupees or both (Country Panel Code/Act 2017, Section 160); Three to seven years imprisonment for the crime of keeping someone as bonded laborer (Ibid, Section 164); Guarantees the right to education in mother languages, right to protect and promote language, script and culture; Recognize customary laws relating to marriage, particularly in relation to certain categories of incestuous relation (*Section 70.2*); Recognize communal/collective land and building or other properties as communal/collective property (*Section 301*) with ensured entitlement (*Section 303.2*); Recognize documents prepared in languages other than

Nepali language as evidence to be presented at courts (*Country Civil Procedural Code, 2017, Sections 273 and 274*); interference on other's social customs as crime liable to one year imprisonment or ten thousand rupees or both (*Ibid, Section 165*); Reduction in penalty on cow/ox slaughtering from 12 years imprisonment to maximum 3 years imprisonment (*Ibid, Section 289*); and the court of any level should provide opportunity for reconciliation or compromise between the parties before giving any verdict (*Country Civil Procedural Act, 2017, Section 13*).

Ministry of Health and New Era with the support of USAID has published Nepal Demographic and Health Survey, 2016 in 2017, but data are not disaggregated by caste/ethnicity.

The Fourth Human Rights National Action Plan (2014/2015- 2018/2019) of the Government containing programs of implementation of ILO C. 169 and UNDRIP, reviewing existing laws and enacting new laws to comply with the international principles and standards of human rights, among others have never been implemented so far. Full realization of indigenous peoples' rights is still a distant dream.

Central Bureau of Statistics (CBS) and UNICEF, Nepal have published Nepal Multiple Indicator Cluster Survey in 2014 and Annual Household Survey 2013/14 in 2015 with abundant data, but not provided disaggregated data by ethnicity/caste, abandoning a practice set by CBS on publishing NLSS report since 2003-4.

Department of Education is almost regularly publishing educational statistics in consolidated reports and flash reports providing disaggregated data by social groups but do not provide details by each caste/ethnicity.

The practice of allocating budget for protection, development, and promotion of indigenous cultures, customs, festivals, languages, literatures, arts, folklores, histories, narratives and heritage of National Foundation for Development of Indigenous Nationalities has been changed from this Fiscal Year (2017/18) with the argument that these areas fall under the jurisdiction of the governments of provincial and local levels, thus these areas became first victim of fiscal federalism.

The Language Commission has started to map mother languages for the use in education and government offices and began to provide technical support to those local level governments that made decisions to use mother languages as their official languages.

Among the mayors of 460 rural municipalities, 178 (38.7%) mayors and among 293 municipalities, 72 (24.6%) mayors, elected recently (2017), belong to indigenous peoples.

In the Federal parliament (lower house) 36 (32.72%) and 47 (28.49%) were elected under the proportional representation and First-Past-The-Post (FPTP) electoral systems respectively. There are 10 (17.86%) IPs representatives in the federal upper house. At the provincial level elections 90 (27.27%) and 74 (33.65%) IPs were elected under the FPTP and PR respectively.

Key challenges and gaps

Overview of challenges faced by indigenous peoples

- Constitution makers failed to incorporate indigenous peoples' rights in the new Constitution in line with the provisions of ILO C. 169 and UNDRIP of which Nepal is a party. Whatever rights enshrined in the constitution, including right to inclusion in state organs, are vague and

rights to culture, language, script and cultural civilization and heritage are inadequate, that need tremendous efforts to make them perfect.

- Of the 308 Articles of the new Constitution, 88 Articles⁶ are discriminatory, exclusionary and oppressive to indigenous peoples (See LAHURNIP, 2016, *IP Network for SDGs, Nepal 2017*). Indigenous peoples have to continue their struggle again with new vigor for the realization of their collective rights, autonomy and non-discriminatory constitution, which is a serious challenge for them.
- The recommendations of James Anaya, Special Rapporteur, after his visit to Nepal from 24 November to 2 December 2008, concerning the initiation of legal and institutional reforms to comply with ILO C. 169 and UNDRIP; creation of special mechanisms for consultations with indigenous peoples on constitutional provisions; indigenous peoples' right to self-determination for exercising autonomy or self-government; among others were ignored or not implemented. Indigenous peoples, being victimized by discriminatory institutional practices, could not take advantage from Special Rapporteur' visit.
- The warnings of the Committee on the Elimination of All Forms of Racial Discrimination (CERD) to the government of Nepal in 2009 for establishing specific thematic committee to ensure participation of indigenous peoples' freely chosen representatives in constitution preparation process and fully recognize and respect their rights guaranteed by the Convention have not been heeded.

Linking challenges to SDGs:

- If SDGS processes are made more open, inclusive, participatory, transparent and more sensitive to poor, vulnerable and powerless, engagement of indigenous peoples in these processes can offer

⁶ LAHURNIP (2016) *Adivasi Janajati Adhikar ko Sandarbha ma "Nepal ko Sambidhan" ko Adhyayan तथा Bishleshan* (Study and analysis of the Constitution of Nepal from the perspective of indigenous peoples), Kathmandu: Lawyers' Association for Human Rights of Nepalese Indigenous Peoples.

opportunities for them to be lifted from multidimensional poverty and exclusion.

- Indigenous peoples should pursue the government for devising ‘leave no one behind’ strategy and developing relevant index to better measure to the SDGs targets.

Information on Country’s engagement with SDG process;

- Sustainable Development Goals 2016-2030 published by National Planning Commission, Government of Nepal in 2015 provides overview of current status of SDG targets, policies and institutions. A total of 124 key targets and indicators and some 306 sub-indicators for 17 SDGs have been worked out. Some of the proposed targets by 2030 are lowest level of poverty and almost zero hunger, elimination of prevailing major diseases, clean water supply and improved sanitation and electricity almost for all households, 100 percent increase in road density, 60 percent households living in safe houses and halving the emission of CO₂ and other greenhouse gases (international environmental negative spillovers not considered). Most targets and indicators are confusing and SDGs are not meaningfully captured.
- Huge data have to be generated and disaggregated as needed to trace or monitor and evaluate the progress on SDGs.
- National Planning Commission has updated SDG National Report, 2015 and prepared a National Review of SDGs, 2017 that reveals slight progresses compared to 2015 report on SDGs 1, 2, 3, 5, 9 and 17 on some 30 indicators.
- Recently, National Planning Commission, Government of Nepal and Oxford Poverty and Human Development Initiative, University of Oxford has published Nepal Multidimensional Poverty Index, 2018 that reveals that 28.6 percent people of Nepal are multi-dimensionally poor. The index is based on Multiple Indicators Cluster Survey of 2014, and so, do not reflect present situation.

- Indigenous Peoples' Network for SDGs, Nepal has submitted Nepal's Voluntary National Review at the High Level Political Forum on Sustainable Development held on July 2017. The report highlighted that large number of indigenous peoples are disproportionately poor and suffering from extreme hunger and economic opportunities are skewed towards them. They are the people far left behind from all perspectives since centuries. For such situation, the report attribute to non-recognition of their collective rights; denial of right over customary lands and natural resources; lack of mechanisms and practices of FPIC while initiating development projects; lack of policies, strategies and programs targeted to poor and vulnerable indigenous peoples; absence of institutional devices to make indigenous peoples stakeholders of SDG processes and cloudy statistical system to degenerate or gloss over disaggregated data by ethnicity.

Key elements of the Navigator country strategy and actions- in addressing the gaps and challenges

Human Rights Based Approach (HRBA) and Self-Determined Development Based Approach are the major approaches for implementation the of project activities. The project will be implemented with the collective initiatives of LAHURNIP, NEFIN and NIWF. For the purpose of implementation of the project a National Coordination Group (NCG) has been formed comprising aforementioned three organisations. Those organisations will be engaged in data collection, prioritisation of communities and issues. Dialogues and coordination with government institutions from local to national level will be also initiated collectively by these organisations. Furthermore they will also engage collectively for alliance building with IPOs, and NGOs/CSO. The navigator tools will be used by these organisations in their lobby and advocacy initiatives.

Strategy

- Collective Empowerment
- Alliance and network building
- Lobby advocacy

Following are the actions in addressing the gaps and challenges:

- Participatory community workshops to identify and prioritize needs and develop concrete project proposals in the area of human development
- Training workshops for community leaders and local indigenous authorities on monitoring of public policies for human development and budgets and lobbying of local governments for policy and programme change as well as fundraising
- Information materials produced, localised and/or disseminated to indigenous communities and organisations on relevant public laws, policies, programmes and budgets as well as indigenous strategies (on e.g. national implementation of the SDGs)
- Implementation of pilot projects with the aim to improve access to rights-based, culturally adequate and participatory social services and social protection
- Dialogue meetings between community leaders and relevant duty-bearers and stakeholders to seek alliances and cooperation on project implementation and co-financing
- Consolidation of findings, production and dissemination of case material to relevant policy- and programme-makers at local, national and global level (videos, audio pod-casts, reports, info-graphics), documenting learning experiences and models for rights-based, collaborative and culturally adequate service delivery for indigenous communities.

Annex III: Press releases issued by LAHURNIP in the fiscal year 2075/76 BS

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नेपालका आदिवासीहरूको
मानवअधिकार सम्बन्धी
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
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प्रेस विज्ञप्ती

सरकारले हालै कार्यान्वयनमा ल्याएको कानून, विशेष गरी राष्ट्रिय जनावर, प्रति आफ्नो असहमति जनाउँदै शान्तिपूर्ण प्रदर्शनमा उत्रिएका विपिन लिम्बूलाई पक्राउ गरी हिरासतमा राखिएकोप्रति नेपालका आदिवासीहरूको मानव अधिकार सम्बन्धि वकिल समूह (लाहुरनिप)को ध्यानाकर्षण भएको छ ।

नेपालको संविधान २०७२ प्रदत्त विचार र अभिव्यक्ति स्वतन्त्रता र शान्तिपूर्ण विरोध गर्न पाउने अधिकार कुण्ठित गर्ने राज्यको रवैया चिन्ताजनक तथा गम्भीर प्रकृतिको छ । यस प्रकारको राज्यको काम कारवाही लोकतन्त्र, विधिको शासन र मानव अधिकारको खिलकुल खिलाप रहेको छ । अर्कोतर्फ मुलुक लोकतान्त्रिक गणतन्त्रमा गठन भएको सरकारले निरंकुश पंचायती व्यवस्था तथा एकतन्त्रीय राजशाही व्यवस्थाको जस्तो कानूनको फलको दिने गरि यो कार्य गरिनु आश्चर्यजनक तथा खेदपूर्ण छ ।

तसर्थ, हिरासतमा रहेको विपिन लिम्बूलाई अखिलम्ब रिहा गर्न र यस प्रकारको क्रियाकलाप नदोहोयाउन सम्बन्धित निकायहरूलाई सचेत गर्दछौं ।


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सचिव

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द.नं. ४०२/०५१/०५२

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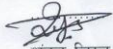
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नेपालका आदिवासीहरूको
मानवअधिकार सम्बन्धी
वकिल समूह (लाहुर्निप)

प्रेस विज्ञप्ति

मिति २०७५ मंसिर २८ गतेका दिन धरान नगरपालिका, लासेवाट धरान नगरपालिका वडा नं. ३ का राजेश खड्गी, राजेन्द्र खड्गी र आशिष खड्गी, त्यस्तै धरान नगरपालिका वडा नं. ११ का अनिल शाही र अनिष शाही, भोक्राहा वडा नं. ३ का बहिस मियाँ, रिजमान मियाँ, शाहदत्र मनसुरी, आशिष मनसुरी र महमूदी मनसुरी गरी १० जना आदिवासी तथा मुस्लिम समुदायका व्यक्तिलाई गोरु काटेको अभियोगमा पक्राउ गरेको भन्ने यस नेपालका आदिवासीहरूको मानवअधिकार सम्बन्धी वकिल समूह (लाहुर्निप)मा जानकारी आएकोले हाम्रो गम्भीर ध्यानाकर्षण भएको छ। नेपालको संविधान तथा नेपाल पक्ष रहेका अन्तर्राष्ट्रिय मानवअधिकारका कानूनहरूले आफ्नो सांस्कृतिक चलन र प्रचलन तथा परम्परालाई अभ्यास गर्ने पाउने मानवअधिकारलाई प्रत्याभूत गरेको छ। कतिपय आदिवासी तथा मुस्लिमहरूले आफ्नो सांस्कृतिक क्रियाकलाप सम्पन्न गर्न चौपाया (गोरु,बाछ्छा) लगायतलाई प्रयोग गर्ने गर्दछन्। नेपाल धर्म निरपेक्ष राष्ट्र भएको हुनाले राष्ट्रले धर्म र संस्कृतिहरूलाई हस्तक्षेप गर्ने तथा अपराधीकरण गर्ने कार्य विधिसम्मत र मानवअधिकारसम्मत हुन सक्दैन। राज्यको यस्तो कार्य संविधान तथा मानवअधिकारको मर्म विपरीत हुन आउने मात्र नभई सामाजिक असन्तुष्टि जन्मन गई समुदायबीच फाटो र सामाजिक द्वन्द्व उत्पन्न हुन जानेतर्फ राज्य सचेत हुन जरुरी छ। प्राप्त जानकारी अनुसार कुनै अमूक धर्म, संस्कृति वा आस्थालाई उत्तेजित पार्ने, होच्याउने जस्ता नियतले गरेको कार्य भनि अभियोग लगाएको अवस्था पनि देखिन आएन। तसर्थ, यस विषयलाई कानूनी कारवाही गरिहाल्नु पर्ने गम्भीर अवस्था पनि विद्यमान नरहेकोले पक्राउ परेकाहरूलाई यथाशीघ्र छाडी दिनुहुन सम्बन्धित निकायहरूलाई हार्दिक अनुरोध गर्दछौं।


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च.नं. : ८२
प.सं. : २०६५/०६६

नेपालका आदिवासीहरूको
मानवअधिकार सम्बन्धी
वकिल समूह (लाहर्निप)

प्रेस विज्ञप्ती

मिति: २०७६ वैशाख १८

राष्ट्रिय मानव अधिकार आयोगको कार्यक्षेत्र सीमित पार्ने, सरकारको नियन्त्रणमा राख्ने तथा कमजोर पार्ने गरी नेपाल सरकारले तयार पारेको राष्ट्रिय मानव अधिकार आयोग ऐन २०६८ लाई संसोधन गर्न बनेको विधेयकप्रति यस नेपालका आदिवासीहरूको मानव अधिकार सम्बन्धी वकिल समूह (लाहर्निप) को गम्भिर ध्यानकर्षण भएको छ।

नेपालको संबन्धानको धारा २४९ र धारा ३०६ (ठ) अनुसार मानव अधिकार आयोग संवैधानिक भएको हुनाले यसले सरकार र तथा सरकारी निकायबाट मानव अधिकारको उल्लंघन भएमा कारवाही गर्ने अधिकार क्षेत्र समेत राख्दछ। त्यसको ठीक विपरित महान्यायधिवक्ताले आयोगको काम कारवाहीलाई निर्धारण र नियन्त्रण गर्न अर्थ दिनेगरी ऐन तर्जुमा गर्न खोज्नु दुभाग्यपूर्ण रहेको छ। यसले सरकारमा बस्ने तथा शक्तिमा रहेकाहरूले मानव अधिकार उल्लंघन गरेको खण्डमा उन्मुक्ति दिने बदनियत राखेको प्रष्ट देखिन्छ।

यस प्रकारको क्रियाकलापले नेपालमा मानव अधिकारको अवस्थालाई भन्नु कमजोर बनाउने, स्वेच्छाचारीतालाई बढावब दिने र अन्तर्राष्ट्रिय जगतमा समेत नेपालको साख गिराउने निश्चित रहेको छ। साथै हाल सम्म "क" श्रेणीमा रहेको मानव अधिकार आयोग "ख" श्रेणीमा भर्ने पनि निश्चित रहेको छ।

तसर्थ, यो संशोधन विधेयक पारित नगर्न नगराउन सरकार, सांसदल, मानव अधिकारवादी संघ संस्थागायत सर्वसाधारणलाई अपिल तथा ध्यानाकर्षण गराउँदछौं। साथै यस विषयमा आवाज उठाउने मानव अधिकार वादी संघ संस्था प्रति पनि ऐक्यबद्धता जाहेर गर्दछौं।


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च.नं. : ९३
प.सं. : २०८६/०८६

मिति: २०७६।०२।२६

नेपालका आदिवासीहरूको
मानवअधिकार सम्बन्धी
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प्रेस विज्ञप्ती

नेपाल सरकारले ल्याउन लागेको गुठी सम्बन्धी विधेयकमा भएका प्रावधानले गुठी सम्पदा संस्कृतिलाई मास्ने अवस्था देखिएकोले आदिवासी नेवा: समुदायले उक्त विधेयकको विषयमा आफ्नो अभिमत जाहेर गर्न संविधान प्रदत्त शान्तिपूर्ण प्रदर्शन गर्न पाउने अधिकार अनुरूप शान्तिपूर्ण प्रदर्शनप्रति एककासी विना जानकारी लाठीचार्ज, पानीको फोहोरा र कुटपीट धरपकड गरिएको छ।

यसमा कुटपीटबाट महेश कारन्जितलाई टाउको जस्तो संवेदनशील, अंगमा कुटपीट गरी सख्त घाइते अचेत अवस्थामा भएको र हाल अन्नपूर्ण न्यूरो अस्पतालमा उपचार भइरहेको छ। उनको टाउकोमा पाँच टाँका लगाइएको छ। साथै डा. महेशमान श्रेष्ठ, विकास महर्जन, कृष्ण गोपाल भायौं, अनिश वैद्यलाई नेपाल प्रहरीले नियन्त्रणमा लिई महानगरीय प्रहरी वृत्त, अनामनगरमा राखिएको बुझ्नमा आएको छ। यसरी महिला बृद्ध-वृद्धाको समेत ख्याल नगरी गरिएको उक्त कार्यप्रति यस नेपालका आदिवासीहरूको मानव अधिकार सम्बन्धी वकिल समूह (लाहूर्निप)को गम्भीर ध्यानाकर्षण भएको छ।

यसरी शान्तिपूर्ण रूपमा प्रदर्शनमा रहेका निहत्था जनतामाथि बल प्रयोग गर्नु भनेको जनताका संविधान प्रदत्त अधिकार हनन् र कुन्ठित पार्नु हो। राज्यको यस प्रकारको व्यवहारले जनताको अधिकार कुन्ठित पारेको छ। राज्यको यस प्रकारको क्रियाकलापले आमनागरिकको शान्तिपूर्ण रूपमा प्रदर्शन तथा विरोध गर्न पाउने अधिकार हनन् हुनुको साथै मानव अधिकारको गम्भीर उल्लंघन हुन गएको छ।

राज्यको यस प्रकारको क्रियाकलाप तत्काल रोक्ने जनताको शान्तिपूर्ण विरोध गर्न पाउने अधिकारको रक्षा गर्नुका साथै सख्त घाइतेलाई यथोचित उपचार गर्ने व्यवस्था गरी नियन्त्रणमा लिइएकाहरूलाई तत्काल रिहा गर्न राज्यका सम्बन्धित निकायहरूलाई आग्रह गर्दछौं।

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नेपालका आदिवासीहरूको
मानवअधिकार सम्बन्धी
वकिल समूह (लाहूर्निप)

प्रेस वक्तव्य

राउटेलाई स्थानहदवाट मुक्त गरी पहिचानसहित सम्मान पूर्वक बाँच्न देऊ !

आफ्नो पुख्र्रौली थातथलो हाल दैलेख, सुर्खेत, जाजरकोट, दाङ, कैलाली, बन्दिपुर, अछाम, डोटीलगायतका जिल्ला अन्तर्गतका विभिन्न विभिन्न वनभे्रवमा घुम्ने जीवन शैली अपनाई आएका राउटे समुदायलाई ग्रासे गाउँपालिका तथा एक गैरसरकारी संस्थाले गत २०७६ साल वैशाख २९ गते देखि लागुहुने गरि डोरीले घेराबार गरी स्थानहद गरी राखेको र स्वतन्त्र रूपले घुमफिर गर्न बन्देज गरेको तथा बाहिरका मानिसहरूले समुदायलाई हेर्नेका लागि टिकट काटनुपर्ने अर्थात् चिडियाखानामा जनवारलाई हेरे जस्तै गरी अपमानित अवस्थामा समुदायलाई राखेकोप्रति यस नेपालका आदिवासीहरूको मानव अधिकार सम्बन्धी वकिल समूह (लाहूर्निप)को गम्भिर ध्यानाकर्षण भएको छ । यस प्रकारको अमानविय कार्यप्रति लाहूर्निप घोर आपत्ति तथा गम्भीर चिन्ता व्यक्त गर्दछ ।

आदिवासी जनजाति उत्थान राष्ट्रिय प्रतिष्ठान ऐन २०५८ ले राउटेहरूलाई आदिवासी जनजातिको रूपमा मान्यता दिई सूचिकृत गरेको समुदाय हो । नेपालको संविधान, २०७२ को धारा ५१ (३) (८) ले आदिवासी जनजातिलाई पहिचानसहित सम्मानपूर्वक बाँच्न पाउने अधिकार प्रदान गरेको छ । नेपाल पञ्चराष्ट्र रहेको आदिवासी अधिकार सम्बन्धी संयुक्त राष्ट्रसंघीय घोषणापत्र-२००७ को धारा ८, धारा २६ तथा अन्तर्राष्ट्रिय श्रम संगठनको महासन्धि नं. १६९को धारा (७), धारा (१२) र धारा (१४)ले प्रत्याभूत गरेको पहिचानलाई कायम राख्न पाउने र पुख्र्रौली थातथलोमाथिको अधिकार तथा आफ्ना जीवनशैली स्वतन्त्र रूपले कायम गरी बाँच्न पाउने अधिकारको उल्लंघन भएको छ । सवैधानिक, कानूनी र मानवअधिकारका कानूनले प्रत्याभूत गरेको अधिकार उल्लंघन गरी राउटेहरूलाई तारबार गर्न लागिएको छ भन्ने यस संस्थाको स्थलगत अनुगमनमा जाँदा जानकारी प्राप्त भएको छ । स्थलगत अनुगमनमा बाहिरका मानिसहरूसँग बोल्नलाई पनि बन्देज गरिएको भन्नेसम्मको सूचना प्राप्त हुन आएको अवस्थाले २१औं शताब्दीमा यसप्रकारले राउटे समुदायलाई गरिएको व्यवहार गैरकानूनी, गैरसवैधानिक, मानव अधिकारको हदसम्मको उल्लंघन र अशुभ घटना भएकोले राउटे समुदायलाई तत्काल मुक्त गरियोस् ।

साथै यस घटनासँग सलम संस्था, व्यक्ति, राजनीतिक नेता वा जोसुकैलाई सरकारले अखिलम्ब कानूनी कारवाहीको दायरामा ल्याओस् । यस प्रकारको कार्य अन्तर्राष्ट्रिय मानवअधिकारको दृष्टिले जनसहाराको दायराभित्र पर्ने भएकोले त्यसबाट उत्पन्न हुने परिस्थितिप्रति सरकारको गम्भीर ध्यानाकर्षण गराउन चाहान्छौ ।

यस अमानवीय कार्यबाट मुक्त गरी राउटेहरूले परम्परागत रूपमा चलिआएको स्वतन्त्र जीवन निर्वाह गर्ने वातावरण तयार गर्न मानवअधिकार सम्बन्धि राष्ट्रिय तथा अन्तर्राष्ट्रिय संघसंस्था, पत्रकार जगत, नागरिक समाज र न्यायप्रेमी सम्पूर्णलाई आ-आफ्नो स्थानबाट भरमद्दर सहयोग गर्न हादिक अपील गर्दछौ ।

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मिति: २०७६ असार २० गते

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