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LOCATING INDIGENOUS PEOPLES' PERSPECTIVES IN REDD+ IMPLEMENTATION IN NEPAL

By
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INTRODUCTION

Topography and Indigenous Peoples of Nepal

Nepal is an independent, indivisible, inclusive, sovereign, secular and democratic country. Located in between the Republic of China to the north and the Republic of India to the south, east and the west, Nepal occupies a total area of 141, 000 sq km of land-locked mountainous terrain which includes the Himalayas. In terms of geography, Nepal is divided into three zones – the High Mountain, Middle Hill and Siwalik which are abundantly in bio-natural diversity. Nepal is equally rich in socio-cultural diversity due to the physiographic regions and indigenous peoples.

The Himalayan zone covers 15 per cent of the total area of Nepal while Hilly and Terai, respectively, occupy 68 and 17 per cent. The altitude ranges from less than 63 meters in the southern plains to more than 8,000 meters in the northern Himalayas, which has the highest peak on the earth – Mount Everest (8,848m). Due to the altitudinal and climatic variations, one can experience almost all types of climates in Nepal – tropical, sub tropical, temperate, alpine and tundra.

The National Foundation for the Development of Indigenous Nationalities (NFDIN) Act-2002 has identified 59 indigenous nationalities in the country (See Annex A). The NFDIN Act defines indigenous nationalities as “communities who consider themselves as distinct groups and have their own mother tongues, religions, traditions, cultures, written or unwritten history, traditional homelands, geographical areas, and egalitarian social structure.” Racially, Nepal is home to four racial groups – Mongoloid, Dravidian, Austroloid and Caucasoid. Among them, the Mongoloids are considered as indigenous peoples. (See Ethnographic Map of Nepal) According to Census-2001, the indigenous peoples cover 37.2 per cent out of the 22.38 million total

population of the country (See Annex B). The growth rate of the Nepalese population is 2.6 per cent per annum. The female population constitutes 50.4 per cent of the total population while the male population constitutes 49.96 per cent.

Out of the 59 groups of indigenous peoples in the country, the census has identified 43 indigenous peoples.¹ There are several reasons which would explain why 16 groups are unaccounted for – the census may have counted them in with other castes or involved classified them into a general category (“others”) due to enumerators’ lack of knowledge and awareness about indigenous peoples in the remote areas.

Out of the 43² identified indigenous peoples, the main 10 ethnic groups have a population of over 100,000 populations, with the remaining groups constituting less than one percent of the total population of the country (See Annex C). Nepalese indigenous peoples are very diverse with different forms of settlements, ranging from nomadic or semi-nomadic to forest and city dwelling (See Annex D). Their literacy rate is 40 per cent which is lower than the national literacy rate of 53.4 per cent.

According to some experts, there are over 140 languages spoken among the Nepalese people. However, the census 2001 has recorded a total of 92 languages only (See Annex E). Among the languages, a majority of indigenous peoples speak Tibeto-Burman language family while the rest speak languages under Indo-Aryan and Dravidian family (See Linguistic Map of Nepal).

LAND USE, FOREST SITUATION, DRIVERS OF DEFORESTATION & FOREST DEGRADATION

Land Use and Forest Situation

The Land Resource Mapping Project (LRMP) prepared the ever first country-wide land use estimation based on the aerial photography in 1978/79. The survey revealed that of the total land, 42.8 per cent comprise forest cover, 26.8 per cent is agricultural land, 11.9 per cent grazing land, and 18.5 per cent uti-

lized for various purposes (Jha, PK et al. 2000). Since then, the forest land has been significantly decreased to 29 per cent (4.2 million ha) as estimated by the Central Bureau of Statistics (CBS 2001). Following malaria eradication in 1950, the forest in Terai was depleted to make room for the increasing populations, farming, and infrastructural development. The recurring fire, grazing, legal and illegal wood harvesting have added woes to the degradation of the available forest over time.

Most of the hill forests have now been managed by indigenous peoples and local communities, and in many cases, the forests are increasing in growing stock. The hills constitute about 30 per cent of Nepal. The Terai, Dun and the hills are highly populated. Construction of network of road in these highly populated regions has also contributed in the depletion of forest.

Though the high mountain areas in the country are scarcely populated, the data show that there is an extensive use of forests. The southern part of the Himalayan region has a wide area of alpine meadow used for grazing and collection of medicinal aromatic plants. The land use pattern and forest land in the country between 1991 and 2001 is presented in Table 1. Most

Table 1: Land Use and Change in Forest Land over Time

Change in Land Use Over Time in Hectares								
Land Use Type (Ha)	Year 1991/1992				Year 2001/2002			
	Mountain	Hills	Terai	Total	Mountain	Hills	Terai	Total
Cultivated land (Total)	207761	17250	10386	29617	210635	179818	10887	30900
Non-cultivated land	494998	43630	55600	98688	517309	448491	64590	10300
Forest (Total)	233346	44309	11585	58200	228100	289066	11494	42680
Shrub	137800	51168	39000	68848	167800	125418	13812	15600
Grass land	132644	15878	35423	17545	137644	159208	36423	17660
Other	796618	16619	24894	24832	946212	202475	31474	30020
Grand Total	2003168	10334	23528	14710	2207700	100080	25000	14710

Source: Adapted from CBS (2008), Environment Statistics of Nepal.

parts of the mountain region are covered with snow. As a result, it has been the center of global attention due to the global warming in the current years.

The table shows that most of the forests in the country are located in the hilly region. The Terai region along with the East-West Highway and Siwalik hill are the second largest forest stand. As per the table, the major grasslands of the country, which cover about 12 per cent of the total land, are located in the mountain region. Other land use category includes snow-covered, rocks, wetlands and settlements which constitute about 18 per cent of the total area. The National Forest Inventory (NFI 1999) shows contradicting data which designates forest cover of about 29 per cent of the total area of the country.

Nepalese shrub lands, the degraded forests, are primarily located in the hilly areas and Terai. Shrub lands constitute about 10.6 per cent of the total area. Jointly, they constitute 5.8 million hectares of land. These forests are located across the four geographical regions of the country. The middle mountains have about 48 per cent of the total forest area and the Terai has about nine per cent of the total forest. Likewise, the Siwalik hill provides room to 16 per cent of the forests while the rest chunk of the forest is located in the high hills. Presently, some 15.2 per cent of the total forest and shrub land is under the Protected Area System.³

The national forests,⁴ under the Department of Forest (DoF), are categorized into five types on the basis of management rights assigned to different entities. Community Forest Users' Groups (CFUGs) manage about 21 per cent of the total forest area while the leasehold groups manage about 0.46 per cent. Likewise, about 0.2 per cent forest is under the Collaborative Forest Management (CFM) regime while the 63 per cent of the forest is under the residual forest and shrub land, legally owned by the government. The residual forest and government-owned forests, in reality, are open access resources in the country.

Situation of Deforestation and Forest Degradation

In Nepal, forest degradation rate is higher than deforestation. A comparative study of forested areas in between 1979 to 1994 shows that annual deforestation rate in the country is 1.6 per cent whereas annual degradation rate is increased by eight per cent (MoFSC; REDD Cell 2009). Ironically, the degradation of national forests is comparatively higher than the other forests management regimes. Evidences clearly prove that the deforestation and forest degradation is substantially reduced once the forest management is transferred to the local communities. At the same time, it is also argued that the community forests⁵ have been improved only at the cost of adjacent national forests in several places. The studies in regard to the deforestation and forest degradation have been carried out by various organizations having knowledge and capacity on Nepalese forests (Nepal's R-PIN 2008).

The Nepalese forests are located in an estimated 5.8 million hectares of land, which is 40 per cent of the total area of the country. Out of the estimated area, a total of 4.2 million hectares (29%) is covered by the pure forest while 1.6 million hectares (10.6%) is shrub-land (DFRS 1999). Table 2 displays the historical forest area of the country and deforestation rate across several years. Presently, the overall deforestation rate in the country is 1.7 per cent, which is well above the Asian average of one per cent and the global average of 1.3 per cent (MoFSC 2008).

Table 2. Deforestation and Change in Forest Cover over the Period of Time in Nepal (in million hectares)

Period	Cover		Total Forest Area	Deforestation Rate (in %)		
	Forest	Shrub Land		Terai	Hill	Overall
1964	6.4	-	-	-	-	-
1979	5.6	0.7	6.3	1.3	2.3	1.7
1986	5.5	0.7	6.2	-	-	-
1999	4.27	1.56	5.83	-	-	-
2000-2005	3.74	-	-	1.4		

Source: (MEST 2001).

A comparative result of the National Forest Inventory and the Land Resources Mapping Project (LRMP) shows that the forest area in the country has decreased by 24 per cent at an annual rate of 1.6 per cent in 1979-1994. At the same time, the shrub land area has increased by 12.6 per cent during the same period (MoFSC 2008). The increasing proportion of shrub land adjacent with the increasing reduction of overall forest area gives a clear picture of deforestation in the country.

Nepal, has approximately 4,268 hectares of forest (29% of the total land area) and 1,562,000 hectares of shrub land (10.6% of the total land area). The most recent statistics reveals that forest area has been decreased at an annual rate of 1.7 per cent over a period of 15 years whereas forest and shrub together have decreased at an annual rate of 0.5 per cent. Decrease in forest is not usual in every physiographic zone. In Terai, forest area has decreased at an annual rate of 1.3 per cent from 1978/79 to 1990/91, whereas the rate in the hilly area is 2.3 per cent during the same period. According to DFRS (1999), the forest and shrub together have decreased at an annual rate of 0.2 per cent in the mountains. Table 3 includes the empirical data on the changes in forest and shrub land in Nepal between 1978/79 and 1990/91.

Table 3. Changes in Forest and Shrub Land in Nepal between 1978/79 and 1990/91

Year	Forest Land (in %)	Shrub Land (in %)	Total	Source
1978/79	38.0	4.70	42.7	LRMP
1990/91	29.0	10.6	39.6	NFI

Source: HMGN-DFRS, 1999.

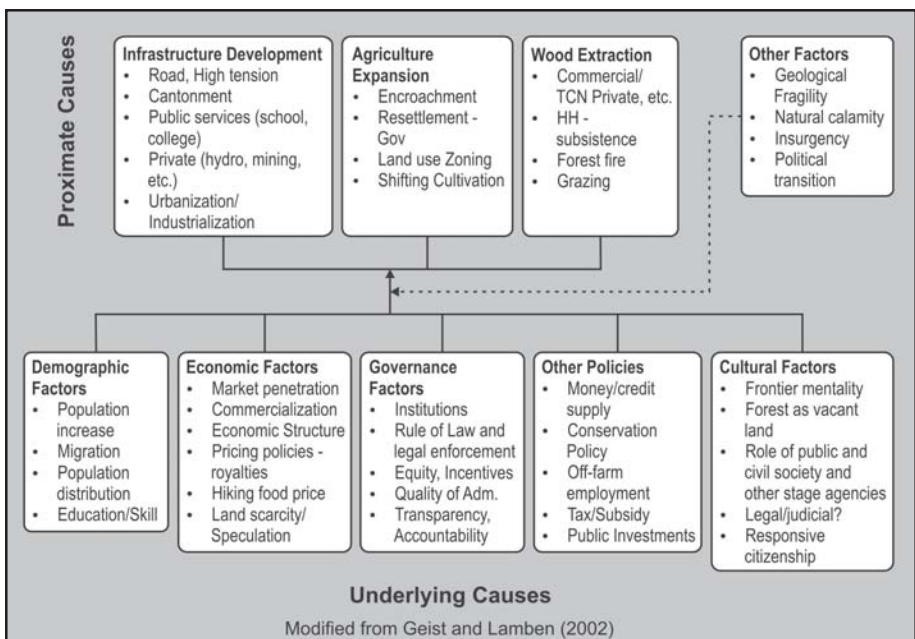
Drivers of Deforestation and Forest Degradation

Various studies reveal that there are multiple drivers of deforestation and forest degradation in Nepal. Deforestation is driven partly by natural disturbances and partly by ecological process (Dunning et al. 1992). It could be either exaggerated by proximate cause that directly results in conversion of land use/land cover or driving forces that amplify the actions for proximate causes (Chowdhury 2006).

According to some authors, wood extraction, agricultural expansion, urbanization and infrastructure development are proximate causes of deforestation (Shukla et al. 1990; Burgess 1993; Ojima et al. 1994; Lambin et al. 2003) that could have direct impact in ecosystem, food production mechanism and local livelihoods in the tropics (Foley et al. 2005). However, others point out biophysical factors, population growth and land-tenure system, socio-political and economic policies as responsible factors to increase the deforestation (Kasperson et al. 1995; Ostrom et al. 1999; Geist and Lambin 2002; Leemans et al. 2003).

Kanel et al. (2009) also differentiates proximate and underlying causes of deforestation and degradation based on the definition of Geist and Lambin (2004). The proximate causes are those immediate human activities which are operational at the local level such as expansion of cropped land and pasture, harvesting or wood extraction, and expansion of infrastructure. These proximate causes of deforestation have had a direct impact on forest land in Nepal.

Figure 1. Proximate and Underlying Causes of Deforestation and Degradation in Nepal



As shown in Figure 1, other studies and detailed discussions with key stakeholders, the following causes of ongoing deforestation and degradation are commonly attributed to a number of important factors in expanding the process of deforestation and degradation in the country.

The proximate causes can be commonly grouped into five broad categories—expansion of agricultural land policies for food production, commercial and household wood extractions for firewood including logging, road construction and infrastructure development policies, wild fire, grazing and fragile geological condition and natural calamities.

The indigenous peoples reside all over the country. However, main concentration of indigenous peoples is higher in mountain and plain regions as compared to the hills. Indigenous peoples are highly affected by the government policies of road construction and infrastructure development, expansion of agricultural land for food production and commercial and household wood extractions for firewood in comparison to hills and mountains. The mountain and hill indigenous peoples are affected by wild fire and grazing and fragile geological condition and natural calamities.

R-PIN (2008), estimated that 80,000 hectares was identified as the area being converted to agricultural and resettlement area in the plain. Within a period of 15 years (1964-1979) about 400,000 hectares of forest was cleared and converted into agricultural and scrubland for livestock grazing.

Wood fuel is the dominant source of energy in small and traditional industries. The industrial sector accounts for 1.5 per cent of the total fuel wood consumption. A large number of medium and large-scale industries in rural and urban areas of Nepal, such as baking, brewing, lime burning, brick making, cutlery industries, etc. also utilize wood fuel as a source of energy (Ghimire 2003). Today bio-fuels provide 87 per cent of the energy consumed in Nepal (HMG, NPC 2003). About 30 per cent of the energy requirements of the industrial sector are met by fuel wood.

Further, infrastructure development is a major but often underestimated cause of deforestation and degradation. Lands

for roads construction and dams settlements have been increased, significantly influencing the deforestation in their surroundings. Between 1978 and 1991, about 99,000 ha of tropical Sal forest in the Terai was cleared with the average rate of deforestation of 1.3 per cent per year (HMGN-DFES 1990). The area was also used for road construction, use by academic institutions and for other development and construction works (HMGN-NPC 1998). Karki (1991) mentioned that 40 per cent of forest fires were accidental and 60 per cent were deliberately set.⁶

There is no systematic and complete record of forest fires that have occurred in Nepal. However, its impact on forest cannot be ignored notwithstanding the varied outcomes across the country. Fires are more frequently reported in the Siwalik Hills of Nepal. Unexpectedly, no forest fires are reported in dry forests, but more so from humid and – to a lesser degree – transitional forest zones in humid savanna areas (Geist and Lambin 2001).

Laban (1979) analyzed natural and human-influenced landslides and found that the natural landslides of considerably large size in middle hills of Nepal measure about 0.2 per sq km but an increase to 2.8 per sq km is discerned in areas with human interference. The hill roads and roadside vegetation are greatly affected by landslides and according to one estimate, about 400 to 700 cubic meters of landslides per sq km occur annually on the hill roads. Every year, 1 to 2 mm of fertile topsoil is lost, leading to desertification and low productivity (Jha 1992).

Indigenous Peoples' Perspective on Deforestation and Degradation Drivers

During the key informants' interviews on 23 Nov. 2009 and national REDD strategic workshop on 23-24 Feb. 2010, indigenous peoples' leaders and researchers opined that the main drivers of deforestation and forest degradation are government laws, policies, institutional factors, political instability, destruction of indigenous peoples' traditional institutions, customary laws and practices.

They claimed that indigenous peoples had their own traditional forests and land management system and equal access to the natural resources which were under their protection before the unification of Nepal in 1769. However, the territorial unification and the imposition of government laws and policies on land and forest subsequently directly or indirectly contributed to forest degradation and deforestation.

By introducing the Private Forest Nationalization Act 1957, the government nationalized the forests across the country. Nationalization of forests in 1957 and subsequent survey and registration of private land in 1960 provided further inducement to convert forests into agricultural land. Consequently, the forests in Nepal started to decrease and degrade at an alarming rate. Indigenous peoples' community forests were appropriated and their traditional rights on forests were taken away thus breaking down the traditionally existing indigenous stewardship and management system of forests. The Act offered no compensations to soon-to-be deprived landowners. As a result, a number of communities intentionally deforested their holdings to avoid nationalization (Khadka and Gurung 1990). Following the incident, communal responsibility of forest management disappeared and the forests in the country were converted into open access areas as a common property resource, with the communities having no stake in forest protection.

Despite the positive intentions of nationalizing the forest, the Act largely contributed to massive deforestation inviting rapid rate of reduction. Unfortunately, the formal nationalization of the forests spurred unforeseen ecological consequences. Incentive was given to clear the forest so that land could be claimed as the private property once it had been cultivated. The subsequent survey and registration of private land in 1960 provided further inducement to convert forests into the agricultural land. This became a key factor to increased deforestation throughout the country. As they had no records of land ownership, the villagers turned to cutting down trees so the land could become private property once they cultivated the land (Bajracharya 1993; Wallace 1997). As government's survey teams traversed the countryside with aim of mapping the boundaries of forest areas, villagers assembled to claim as much area as

they wanted. This resulted in extensive deforestation and environmental degradation. The Land Survey and Measurement Act of 1963 continued to have an adverse impact on forests as it defined forest land as common property. Such a definition encouraged people to claim forest areas as their common lands and this resulted in rampant exploitation of land, further breaking down the indigenous community's management system of forest resources.

Moreover, violent breach of stipulations of the Act reportedly led to the relocation of displaced people to forested areas in Nepal. In some cases, such relocations were even funded partly by transmigration programs of international institutions and national governments. Next to the policy decisions leading to deforestation, the colonization and re/distribution of forests at the national level contributed further to the deforestation and degradation of the Nepalese forests.

Likewise, the government's economic development policies and decisions to establish colonization settlements in the country also had an impact on deforestation. In most of the cases, national policies, through national development plans, encouraged most of the expansions of cropped land and pasture land and the expansion of infrastructure. The specific growth-oriented agricultural and infrastructure policies also contributed to deforestation and degradation of forests. Aside from national development plans, international policies also brought impacts in this case. The international development aid, World Bank policies on cash crops, road construction and Structural Adjustment Programs focused at the local level also invited huge deforestation. At the same time, political instability in the last decade and lack of land use plans also contributed to the deforestation and degradation of forests in Nepal.

In addition, government's informal policies also were contributory factors to deforestation in the country. In specific cases, the forests of the Terai and Siwalik range are receding both in terms of area and quality. Public land, including forests, shrubs and rangeland are under the jurisdiction of the Department of Forest (DoF) and Department of National Parks and Wildlife Conservation (DNPWC). These parks and reserves in the Terai and Siwalik range are under the supervision and active patrol-

ling of Nepal Army with the restrictive forest management laws-1973 and regulations-1993.

These policies, as a whole, fostered the process of alienation of indigenous and local communities from their natural bases without addressing their social, cultural economic and gender problems. The policies have put these communities' survival in conflict with environmental sustainability. Since they no longer felt that the forests in their communities no longer belonged to them, the people were left with no option but to engage in illegal activities inside the parks and reserves.

The lack of transparency and massive-scale corruption also contributed to the deforestation and degradation of forests in country. The unsustainable timber logging and forests cut down because of the lawlessness made bureaucrats and government institutions unable to perform their supervisory duties leading to forest mismanagement (Acharya 2010).

Keeping in mind the experience of deforestation and degradation, it can be argued that the government's prevalent forest policies undermined the indigenous forest management system. In a Focus Group Discussion during the National REDD Strategic Workshop held on February 23-24, 2010, indigenous peoples consider the deforestation as a result of loss of their community rights to own, use and control the forest in Nepal. The natural ecosystems—the air, waters, lands, plants and animals, rivers, wetlands and ponds constitute the totality of the natural environment and provide indigenous peoples the basis for their traditional subsistence economies such as farming, hunting, gathering, herding and fishing. They also fear that deforestation and degradation of forests in the country has posed risks to their livelihood, economy and resource finally eroding their social life, traditional knowledge and cultures

LAWS POLICIES AND PROGRAMS ON FOREST, LAND-TENURE, REDD, CLIMATE CHANGE & INDIGENOUS PEOPLES' RIGHTS

Indigenous Peoples and International Human Rights Instruments

Aiming to protect the rights of indigenous peoples, Nepal, including the various organizations, have adopted, introduced and ratified a varied number of rights-related declarations and instruments. Nepal, for instance, has ratified the International Labor Organization's (ILO) Convention No. 169 concerning the Indigenous and Tribal Peoples in Independent Countries on 10 September 2007. The United Nations General Assembly has also adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on 13 September 2007. In addition, Nepal has also ratified several other international instruments which are directly relevant to indigenous peoples in Nepal.

Indigenous Peoples' Rights in Constitution and Legal Provisions

Indigenous peoples values and identity are deeply rooted in the continued existence of culture, tradition and knowledge but successive governments of Nepal after 1950s have failed to address the issues of indigenous peoples. The democratic movement of 1990 brought the essence of multi-ethnic and multi-lingual nationalities to a wider recognition, both politically and constitutionally. The political change of 1990 only tried to adopt a cosmetic approach on the key issues, and the issues of indigenous peoples was left un-addressed. The interim constitution, 2007 also looks very promising in as far as being able to address the issues of indigenous peoples' rights; however, the concretization of such promise remains to be seen.

Constitution of the Kingdom of Nepal-1990

The 1990 Constitution of the Kingdom of Nepal declared Nepal a multi-ethnic, multi-lingual and democratic country. For the first time, the Constitution formally recognized the indigenous peoples in the country. Despite its recognition through Article 4, the Constitution still could not address the issues and problems regarding the indigenous peoples' rights. Unfortunately, by giving primacy to Hinduism, the Constitution, in effect, relegated other religions to second-class status. As a result, the indigenous peoples in Nepal were discriminated in the social, political and economic aspects.

Further, Article 6 of the Constitution recognized Nepali language as the language of nation, undermining other languages as national languages. This provision invited linguistic discrimination in the country. Article 18 (2) of the Constitution contradictorily gave communities the right to conduct schools up to the primary level in their own mother tongues while Article 112 (3) prohibited political activities based on their religions, castes and socio-cultural groups.

Interim Constitution-2007

Following the People's Movement II, Nepal, through the Constituent Assembly, attempted to introduce a new constitution. Currently, Nepal has an interim Constitution promulgated in 2007 which was introduced on the basis of a political agreement by the Seven Party Alliance (SPA). In comparison to past documents, this Constitution has allowed for the inclusion of positive provisions to address indigenous peoples' political, cultural, economical and social rights. Article 3 of the Constitution recognizes Nepal as multi-ethnic, multi-lingual and multi-cultural country. The Constitution has also declared that Nepal would move ahead as a federal democratic state. It recognizes Nepal as a secular state and all the languages as language of nation, i.e., the language spoken in the particular state shall be the official language of the state (See boxed item for relevant articles in the 2007 Interim Constitution).

**Some Important Articles of the
Interim Constitution-2007**

Article 13.3: The State shall not discriminate among citizens on grounds of religion, race, caste, tribe, sex, origin, language or ideological conviction or any of these. Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or advancement of the interests of women, dalits, indigenous ethnic tribes, Madhesis, or peasants, laborers or those who belong to a class which is economically, socially or culturally backward and children, the aged, disabled and those who are physically or mentally incapacitated;

Article 14.1: No person shall, on the ground of caste, descent, community or occupation, be subject to racial discrimination and untouchability of any form. Such a discriminating act shall be liable to punishment and the victim shall be entitled to the compensation as provided by the law;

Article 14.2: No person shall, on the ground of caste or tribe, be deprived of the use of public services, conveniences or utilities, or be denied access to any public place, or public religious places, or be denied to perform any religious act;

Article 14.3: No person belonging to any particular caste or tribe shall, while producing or distributing any goods, services or conveniences, be prevented to purchase or acquire such goods, services or conveniences; or no such goods, services or conveniences shall be sold or distributed only to a person belonging to a particular caste or tribe;

Article 14.4: No one shall be allowed to demonstrate superiority or inferiority of any person or a group of persons belonging to any caste, tribe or origin; to justify social discrimination on the basis of cast and tribe, or to disseminate ideas based on caste superiority or hatred; or to encourage caste discrimination in any form;

Article 21.1: Women, dalits, indigenous peoples, Madhesis community, oppressed groups, the poor peasants and laborers, who are economically, socially or educationally backward, shall have the right to participate in the state

mechanism on the basis of proportional inclusive principles; *Article 33 (d)*: It is responsibilities of the state to carry out an inclusive, democratic and progressive restructuring of the State by eliminating its existing form of centralized and unitary structure in order to address the problems related to women, dalits, indigenous peoples, Madhesis, oppressed and minority community and other disadvantaged groups, by eliminating class, caste, language, sex, culture, religion and regional discriminations;

Article 35.10: The State shall pursue a policy which will help to promote the interest of the marginalized communities and the peasants and laborers living below poverty line, including economically and socially backward indigenous tribes, Madhesis, dalits, by making reservation for a certain period of time with regard to education, health, housing, food sovereignty and employment.

In recognition of the interest of indigenous peoples, the Constitution asserts that the states shall ensure the participation of marginalized indigenous peoples in all tiers of the state as per the principle of social inclusion and proportional representation. Article 63 similarly gives provision for 601 members of the Constituent Assembly to be selected through a mixed electoral system. As per the provision, a total of 240 members are chosen through “first-past-the-post” elections system, 335 members are chosen through the proportional representation electoral system (groups to which the provision applies are: women, dalits, oppressed communities and indigenous peoples from backward regions, Madhesis and other groups as defined by the law), and 26 distinguished members from ethnic groups by the Ministry of Council.

National Foundation for Development of Indigenous Nationalities Act-2001

Nepal has formulated an act on National Foundation for Development of Indigenous Nationalities (NFDIN) for the social, economic and cultural development of the indigenous peoples. The Act is equally aimed at the protection and promotion of language and culture of indigenous peoples. Furthermore, it also aims to uplift and make equal participation of the indigenous people in the mainstream development. Section 5 (3) of the Act, aims to conserve and promote the traditional skills, ideas and technology of indigenous peoples and help them bring into commercial use. Section 6 (a) of the Act has made provision to make the Foundation responsible to develop necessary programs on conservation and promotion of language, script, literature; history, art, culture, traditional skills and technology of the indigenous peoples. The Foundation is an autonomous corporate body. Its main objective is to provide support in the overall development of indigenous nationalities by formulating and implementing plans and programs related to their community, education, economy, culture and technology of traditional livelihoods.

However, the Act has no provisions on indigenous peoples' traditional knowledge in forest biodiversity. It is merely limited to the non-forest biodiversity based knowledge, skills and technology. The Foundation is limited in the sense that it primarily promotes the welfare approach rather than the implementation of a human rights approach to development.

Nonetheless, there are a number of acts, regulations and ordinances which are concerned with the issues of rights of indigenous peoples (See box).

Acts, Regulations and Ordinances for Rights of Indigenous Peoples

Civil Service Bill-2007 - The Civil Service Act was amended in 1993. Among others, it provides seat reservation to excluded people and backward regions, and trade union rights. The reservation/quotas in the civil service are as follows: women—33 per cent, Janajati—27 per cent, Madhesis—22 per cent, Dalits—nine per cent, persons with disabilities—five per cent, and backward regions—four per cent.

Nepal Police Regulations-2007 - Nepal Police Regulations, making historic amendment of its Regulations, provided 32 per cent seats to indigenous nationalities, 28 per cent to Madhesis, 15 per cent to Dalits, 20 per cent to women and five per cent seats to the peoples from backward regions during its recruitment.

Social Inclusion Ordinance-2009 - The Ordinance, for the first time, made public service the inclusive. The proposed ordinance reserves 45 per cent of its total seats to women, Adibasi Janajati, Madhesis and Dalits, people with disabilities and residents of backward regions while filling the vacant posts through free competition.

Constituent Assembly Elections Act-2007 - According to Constituent Assembly Elections Act-2007, all the contesting political parties must ensure representation of different groups in following proportion: A total of 37.9 per cent indigenous peoples, 31.2 per cent Madhesis, 13 per cent Dalits, four per cent from backward regions and 30.2 per cent Brahmins and Kshetris. The Act also provisions 50 per cent women candidates from all groups.

Land, Forest and Rights Policies of Indigenous Peoples

Prior to the territorial unification of Nepal by King Prithivi Narayan Shah in 1769, Nepal was divided into 22 and 24 principalities and other independent nation-states of the indigenous peoples. Prior to unification, exclusion primarily emanated from discrimination owing to patriarchal and Hindu caste-based structures and through political structures that comprised Kings and their subjects along with chieftains and their tribal community. The post unification period, which fostered central dominance and dismantled local and community structures which were prevalent for centuries promoted various forms of exclusion by religious, cultural and political processes. The dominance of a privileged group supported by the centre emerged and the common indigenous peoples became excluded from socio-economic opportunities, including access to local resources.

The governments of Nepal introduced and implemented discriminatory land and forest acts in Nepal. Because of these acts, the vast majority of indigenous peoples were displaced from their own communal land which they had tilled from generation to generation as the land title deeds were unfairly awarded. This severely undermined and indigenous peoples' access to local resources, such as land, forest and water on which they had depended for their livelihood for centuries and their rights to these were severely curtailed following restrictions and barriers imposed by centrally-administered regulations and tax regimes.

Land Acts

During the territorial unification of Nepal in 1769, the Gorkhali rulers displaced indigenous peoples from their original homelands. Even after the unification, they introduced discriminatory land laws, and ignored all the customary land-tenure systems and laws of indigenous peoples. In some cases, they provided *Kipat*⁷ lands to indigenous peoples legislating special laws like *lalmohar*, *sanad* and *sawal*. The Nepalese indigenous peoples further lost their land during the 103-year long Rana

regime. By introducing discriminatory laws, the Ranas were able to register the lands of indigenous people under their names.

In the modern times, the one-party Panchayat government introduced the Land Reform Act in the year 1964. With its first amendment in 1968, the government abolished the *kipat* land system of the indigenous peoples, as this was considered as a form of landlordship. The Pasture Land Nationalization Act of 1975 added further woes to indigenous people and their livelihoods by nationalizing and adding extra taxes on their pasture lands.

Forest Act-1993 and Forest Regulations-1995

Nepal introduced Forest Act-1993 to provide legal measures with aims to protect the forests and involve the local people in the conservation and development of forest resources. The Act gained further strength with the enactment of Forest Regulations-1995 in promoting the local communities' access to forest resources. In order to meet the goals set by the aforementioned Act and Regulations, the government empowered District Forest Officers (DFO) to hand over any part of national forest to the users' group for them to develop, conserve, use, and manage, and to sell and distribute forest products independently by fixing the prices under the work plan of the Act-1993 (Section 25.1.) However, handing over of the forest to the community does not change the status of ownership of forest land (Section 67). This provision shows that the state remains the principle authority to control over the Nepalese forests.

Forest Act, Community Forests and Indigenous Peoples

In order to facilitate the handover process, the government of Nepal has given top priority to the community forests. The community forestry program in Nepal has been implemented for more than 15 years. Recent data indicate that over 14,500 community forest users' groups (CFUGs) have been formed so far. This means that more than 1.24 million hectares of forest—

nearly 25 per cent of the total area of the country – has been managed by such groups. According to the (FCPF RPIN-2008) over 950 Leasehold Forest Users' Groups (LFGUs) have been formed across the country which has been managing a total of 3,700 hectares of forest land.

Despite these facts and Community Forest Users' Group (CFUG) provision for participation of local communities in the management and implementation of the forestry and leasehold forestry program, indigenous peoples and socially disadvantaged local communities have been excluded in the decision-making process and equitable benefit sharing of the forest and forest products. Ironically, despite the stipulations of the Act, the government has taken no initiatives to promote the indigenous knowledge, skills and customary practices for the sustainable management of the community forests.

National Parks and Wildlife Conservation Act-1973

The government introduced National Parks and Wildlife Conservation Act-1973 (NPWC) with the objective of creating National Parks to conserve the wildlife and their habitats. In the preamble of the Act, it mentioned to protect, conserve, manage and utilize the naturally beautiful sites and penalize the poachers and hunters.

With the Act in place, the responsibility of managing and protecting naturally significant areas has under the purview been of the warden, not the forest users' groups (Section, b, NPWC, 1973). As per the Act, the government has heavily restricted the local inhabitants' movement into the parks and reserves. Despite the provision to seek local people and local leaders' feedbacks and suggestions before building the National Parks, Reserves, or Protected Areas (Section 3 and 3a f NPWC, 1973.),⁸ the government hardly does such consultations and local communities have excluded in decision-making processes. Following the introduction of NPWC Act-1973, forest-dwelling and local communities, including indigenous peoples, were displaced from National Park, Reserves and Protected Areas. Peoples who were expelled from their traditional territories and lands without any pre-information and consent while building parks, re-

serves and protected areas have unfortunately not been given compensation. The locals and indigenous peoples' issues of concern such as land rights and restitution for loss of their lands including physical, cultural and both the tangible and intangible sources have not yet been properly resolved.

NPWC Act-1973: Government Forests and Indigenous Peoples

The forests in the protected areas, the leasehold forests, the religious forests and the forest which are have not yet been handed over to the communities are known as government-managed forests. In Nepal, all forests are national forests unless planted and registered as private forests. There is larger portion of forest managed by the government in Nepal. Such forests are strictly protected and broadly managed within protected areas system. Protected areas have been guarded by army or DFO staff. The guard posts deployed at the strategic location are relatively strict in enforcing government instructions.

The state-imposed exclusionary conservation policies and practices have disregarded indigenous peoples' existence, dependence and their relationship with forestlands and subsistence or livelihood in the forest resources. However, the government has allowed indigenous and local communities to use certain park resources under specific terms and conditions during particular seasons. Again, such conditional access is given under the strict regulations and supervision of the park authority.

Aside from these pros and cons, the government has imposed a major injustice against the indigenous and local communities living close to the surrounding of protected areas by alienating and depriving them from forest resources. It has obstructed various traditional practices to own, access, control, manage the park resources. Indigenous and local communities' traditional rights are curtailed and they are denied adequate alternative opportunities and management which has resulted in a serious livelihood crisis (Rai 2009).

NPWC Act and Buffer Zone

The National Parks and Wildlife Conservation Act (NPWC) underwent a third amendment in the 1992 to incorporate the concept of “buffer zones” in the protected areas. As a new policy initiative of the government, it began taking shape immediately after the amendment of the NPWC Act. Pursuant to this amendment, an attempt was made to create a transition belt in the periphery of the protected areas, and to introduce a compatible land use pattern. This could create a protective layer, mitigate the pressure on the parks and improve the life of the people in the vicinity of the parks and reserves through community development programs.

The Buffer Zone Management Regulation-1996 strengthened the interrelationship between National Park, Reserve and local community living around. It aimed to conserve and protect wildlife through peoples’ participation by informing local people about the direct benefits of the parks and reserves to persuade them to support conservation efforts. The Buffer Zone Management Guideline-1999 was approved and put into effect with the aim to supply forest products and to conduct community development programs for the economic development of local people using revenues collected by parks. In this regard, management and conservation activities have been carried out with the partnership and collaboration of various organizations in the buffer zones. However, another shortcoming of the NPWC Act is its lack of scope for community participation in conservation design and management of the parks and reserves. The Buffer Zones model found that it had a tremendous positive impact on the nearby indigenous communities, although the poorest among them were still not found have benefited. The buffer zone concept is good but still with many incomplete provisions.

So far, a total of over 1500 users’ groups and 110 users committees have been formed with a population of 0.4 million (Oli 2005) across the country. Despite these positive moves, there have been a few successful examples in the span of the two decades of efforts towards involving indigenous and local community in management of parks and reserves. Indigenous peoples’ participation is woefully low in comparison to their greater de-

pendence on park resources and their high population densities around parks and reserves.

Policies and Programs

Since the Eighth Plan period under social welfare, various programs for economically, educationally, socially backward communities were implemented but the indigenous peoples scattered all over the kingdom could not reap substantial benefits. Taking note of weakness and limitations of the earlier programs, the Ninth Plan incorporated a special policy and programs related to indigenous people and ethnic groups. The Tenth Plan separated chapters on indigenous peoples. In the interim of three years, the Plan has comparatively adopted broader perspectives on aspect of indigenous peoples.

The programs included in the plan were launched with the objectives of eliminating existing social disparities and exclusion by improving the indigenous peoples' and local communities' socio-economic condition, raising overall cultural status of the nation by undertaking research works on their cultural heritages with the view of ensuring the local cultures' well-being while enhancing the members' capabilities through economic, social and communal empowerment. These also sought to involve them in the nation building task through ensuring their access to resource by promoting knowledge and skill along with the modernization of their traditional occupations.

Despite these facts, indigenous people and ethnic groups as a whole were unable to reap benefits as envisaged by these programs. There are no committees of indigenous people and ethnic groups at the local level. Implementation of the programs emanated from the center and as such, difficulties, which prevented smooth, well-managed and effective implementation of the programs hindered the process. The failure may be attributed to the to lack of timely monitoring and of policy in respect to development of expertise in the indigenous peoples communities.

Ninth Plan-1997-2002 and Tenth Plan- 2002-2007

Since mid 1990, social exclusion has become an agenda of development due to increasing insurgency. The Ninth Plan-1997-2002 was the first periodic plan to include sections on social inclusion keeping in mind the social security of the downtrodden and oppressed communities (Gurung 2007 in NPERCENT, 702-706 and 707-712). But very little was done in terms of implementation. The Tenth Plan-2002-2007 separated chapters on indigenous peoples. The policy components include elimination of inequality through socio-economic development, skill mobilization of such communities, and emphasis on social upliftment by allocation of resources and opportunities.

To address indigenous peoples' issues, the programs and activities have been implemented in part through NFDIN. The programs are limited to the continuation of the Ninth Five-Year Plan. Though the Tenth Plan mentions a broad range of policies and strategies to empower the indigenous peoples through positive actions and programs, these have not been concretized in practice. These program components have not been assigned any quantitative targets. Indigenous peoples' issues have not yet become a priority for the government as evidenced by the relatively small budget allocated to address the indigenous peoples' issues and absence of clear policy. The Tenth Plan does not specifically give emphasis on the issue of rights of indigenous peoples to land, forest and traditional forest-related knowledge. Its chapter on strategies and actions primarily gives emphasis on protection, promotion and utilization of rural traditional knowledge, skills and technology. Thus, there is no way to assess the implementation progress, particularly on impacts on upliftment of indigenous peoples. Some policies made for the disadvantaged groups are merely welfare-oriented and do not truly not address the structural problems.

Interim Plan-2007-2010

The Interim Plan-2007-2010, adopts comparatively broader perspectives insofar as aspects which address the concerns of indigenous peoples. Unlike others, it has identified the problems, challenges, opportunities, strategies, and programs, for the development of indigenous peoples (See box). Though the Plan does not specify the forestry sector policy for the indigenous peoples, it, however, commits to support poor indigenous peoples, as many indigenous peoples, comparatively, have lower income rate. It consists of policy on forestry sector, has set the objective,⁹ strategies and policies related to poor,¹⁰ and mentions about the opportunities for the members of the communities.¹¹

Problems, Challenges, Opportunities, Strategies and Programs for Interim Plan-2007-2010

Problems: Lack of access to power and resources as the structure and management of the state is centralized. Lack of legislation in all sectors for positive discrimination and reservation, issues of indigenous peoples not prioritized due to conflict in the country. There was lack of data showing status and problems of indigenous peoples, inadequate budget and program for improvement in education and health, and conservation of language and culture. There was no policy clarity to identify traditional skill, technology, knowledge, language and capacities of indigenous peoples.

Challenges: Due to inadequate education, indigenous peoples are not in position to compete with other higher section in the Nepalese society. In lack of governance and pervasive corruptions, the indigenous peoples have not succeeded to use their human rights and services.

Opportunities: In the Interim Constitution-2007, Nepal is declared a secular, inclusive, republic, which has opened up additional chances for indigenous peoples. With end of armed conflict, there is favorable environment for the promotion of knowledge and skills and use of natural resources in the region occupied by indigenous peoples.

Strategies: Interim Plan has mentioned following strategies and policies relating to biodiversity conservation and indigenous peoples. Implementing special programs for threatened, highly marginalized and marginalized indigenous peoples. Language, religion and culture of indigenous peoples will be conserved and promoted through development of National Cultural Policy. Develop appropriate mechanism to increase access of indigenous peoples in water, land, forest and mines. For protection and promotion of language and culture of indigenous peoples, a long-term master plan will be prepared and implemented.

Main Program: Interim Plan has mentioned following main programs based on the biological resource for the development of the indigenous peoples. Given priority to the indigenous people for the protection and management of natural resources. Develop policy for loan to support enterprises and skill of indigenous peoples. Arrange for seed money, training and technology for modernizing and professionalizing traditional skills and knowledge. Implement enterprise program for development of indigenous peoples. Implement necessary programs for promotion and production of non timber forest products and medicinal and aromatic plants to raise livelihood of indigenous peoples.

The Interim Plan has adopted conservation, promotion and sustainable use of biological resources. It also makes provisions for the preservation of culture, language, traditional knowledge, skills, and technology through research and institutional arrangements. Moreover, considerations in relation to community and public ownership of biological resources have been made to meet with indigenous and poor people's aspirations in relation to a forestry program. The Plan also aims to promote and utilize forest resources to enhance livelihood development opportunities and thereby reduce poverty. Likewise, the plan has also recognized the full range of forest potential and biodiversity in terms of environmental and economic aspects.

However, the plan does not touch the issues that could address social, cultural and spiritual aspects of the forests. Likewise, the plan does not recognize the rights of indigenous peoples

over their lands and forests. In order to extend support for the promotion and protection of traditional knowledge and customary practices of indigenous peoples in the conservation and management and sustainable use of forest resources, the plan privileges a sectoral approach to the holistic approach.

Nepalese Indigenous Women

The Nepalese women's rights movement found impetus for resurgence after the restoration of democracy in 1990. The 1990 Constitution of Nepal further shaped the women's movement as it safeguarded and guaranteed women's rights to freedom and equality. Consequently, the country saw the emergence of various organizations advocating for the women rights, among these, the Ministry for Women, Children and Social Welfare. The formation of the National Women Commission (NWC), likewise, is another example of positive developments in connection to Nepalese women's rights. The growing women's movement is further strengthened by the recommendation of the Constitutional Organ Determining Committee of the Constituent Assembly to accord constitutional recognition to the NWC. The NWC has the mandate to run programs development programs for women and rights to investigate and recommend action for acts of violence against women.

As a backdrop to these achievements, the government of Nepal was a signatory in 1997 in the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Similarly, the government of Nepal has expressed support for UN Security Council Resolution No. 1325 that ensures and promotes women rights even during the period of conflicts. The elections to Constituent Assembly also brought out some positive results in regard to the political participation of the Nepalese women. Through the Act on Constituent Assembly Elections, the provision for an obligatory 33 per cent women's participation was secured. As a result, there are 197 (i.e., 32.8%) women members among the 601 total Constituent Assembly members. Among these seats are 30 women members elected through "first-past-the-post" electoral system, 161 elected through the proportional representative system and the

remaining 26 chosen as representative on the basis of nomination. This representation is remarkably larger than the women's presence in the previous parliaments. Amended Civil Servant Act- 2063 has specified a 33 per cent quota for the women and Nepal Police and Armed Police Force-Nepal has also provisioned specific seats for the women.

Despite these efforts, discrimination against women is still prevalent in the county who still are an insignificant presence in the formal social, political, cultural and economic sectors of the country. Even the patriarchal familial system existing in the society has been tagged as another cause of the discrimination against women. On the other hand, NWC has not been very effective due to lack of human and financial resources.

The situation of indigenous women and their children is even more pathetic. The problems of indigenous women can be viewed through three different perspectives—first in terms of gender, second in terms of indigenous peoples and third in terms of indigenous women.

As indigenous women, they have been facing problems due to some state-made policy and laws. A number of government policies have undermined the traditional knowledge, skill and inventions of indigenous women. Though the existing acts, laws and policies, have made some provisions to address the women's issues, no provisions are made in the case of indigenous women who traditionally have special significant identity in their community. Even the programs launched by the government have failed to bring together and mobilize the indigenous women, let alone the special programs to promote and protect their indigenous skills, arts and knowledge (ILO 169 Nepal 2010).

As for the REDD initiatives in Nepal, the issues of indigenous women are not mentioned in both RPIN and RPP to address the important roles they have played in the sustainable management of the forest. On the top of that, there are no women representations in the national REDD-related institutional set-up in Nepal. The Himalayan Grass-Roots Women Natural Resources Management Association (HIMAWANTI) is one of the members of the consortium in the implementation of 1b component of RPP but it has merely focused women's issues in gen-

eral. Thus the issues of indigenous women's full and effective participation in the REDD process is lacking.

ANALYSIS OF REDD PROCESSES & MECHANISMS

As a signatory nation to the United Nation's Framework Convention on Climate Change (UNFCCC) since 1992, the government of Nepal has focused on the issues of climate change nationally and internationally. When the Bali Conference 2007, COP 13, Bali Action Plan (BAP) came up with the policy approaches and positive incentives on the issues of REDD in developing countries and mentioned the issues of indigenous peoples for the first time, Nepal also submitted an R-PIN to the World Bank on the 15th of April 2008 for the REDD initialization under the Ministry of Forest and Soil Conservation. On 26 January 2009, the Ministry of Forest and Soil Conservation established a three-tiered REDD-related institutional set-up—the REDD multi-sectoral, multi-stakeholder, co-coordinating and monitoring body at apex level, the REDD Working Group at operational level and the REDD Forestry and Climate Change Cell (MoFSC Website).

The key stakeholders of REDD process are mainly the government agencies under the Ministry of Forest and Soil Conservation (MoFSC), Civil Society Organizations (CSOs) such as Nepal Federation of Indigenous Nationalities (NEFIN), Federation of Community Forest Users Group (FECOFUN), Himalayan Grass-Roots Women's Natural Resources Management Association (HIMAWANTI), Association of Collaborative Forest Users' Nepal (ACOFUN), Dalit Alliance for Natural Resources (DANAR), Nepal Foresters' Association (NFA), and National Indigenous Women Federations Nepal (NIWF) together with I/NGOs and private sector organizations working closely in the field of forest, land and agricultural sectors. However, the main role in the development and implementation of the REDD process is guided by the REDD Working Group under the Ministry of Forest and Soil Conservation.

Programs and Activities of REDD Cell

The REDD Forestry and Climate Change Cell, in coordination with the REDD Small Working Group, is working on the Readiness Preparation Proposal (RPP) under the mechanism of Forest Carbon Partnership Facility (FCPF) of the World Bank. One of the purposes of the Readiness Preparation Proposal is to assist the country in its preparations for REDD. Although there was no representation of the indigenous peoples during the preparation of R-PIN and the issues of indigenous peoples were negligible, representative from NEFIN was invited to be one of the members among seven of the REDD Working Groups at the operational level.

R-PIN and Indigenous Peoples

In the beginning of the REDD talks in 2007, the Government of Nepal responded quickly to the opportunities such as the World Bank's Forest Carbon Partnership Facility (FCPF) as one of the preparatory activities for REDD. The current REDD initiative aims to establish an enabling framework for promoting transparent, accountable and equitable service delivery in carbon business. The main emphasis is given on capacity building across the host stakeholders on institutional, technical and operational aspects to institutionalize good governance and carbon trading in forestry (Kotru 2009).

The Ministry of Forest and Soil Conservation (MoFSC) has been actively participating in REDD-related talks nationally and internationally from 2007. Nepal has submitted its Readiness Plan Idea Note (R-PIN) in April 2008. Remarkably, Nepal is also selected for support under the World Bank's Forest Carbon Partnership Facility (FCPF) and REDD Readiness Fund. R-PIN explicitly recognizes the cultural, medicinal and livelihood values of forests for forest dependent communities. It also recognizes to promote through forest-based laws and policies, increased roles of communities in forest management.

R-PIN clearly recognizes indigenous communities as forest dwellers further identifying as one of the main stakeholders in the REDD process. It has also underscored the need to conduct

the program in the spirit of a rights-based approach. However, R-PIN has fallen short in recognizing the rights of indigenous peoples over the resources secured by the international treaties and conventions like ILO 169 and UNDRIP. Likewise the R-PIN has not even addressed the issue of full and effective participation including free, prior and informed consent of indigenous peoples in the development and implementation of REDD process. There is no clear picture of women and children and their involvement in the National REDD process. It has emphasized on management of the forest by the local communities but ignored the customary practices of indigenous peoples and the role of women in the sustainable management of the forest. Thus the R-PIN is unable to give clear picture of the empowerment of the indigenous peoples and the benefit sharing process.

R-PP and Indigenous Peoples

In the process of working on the Readiness Preparation Proposal (R-PP), the proposal to work on the different components was published in the national newspapers. There are six components of R-PP:

1. Consultation and Organization: (1a) National Readiness Management Arrangements; (1b) Stakeholder Consultation and Participation;
2. Preparation of REDD Strategy: (2a) Assessment of Land Use, Forest Policy and Governance; (2b) REDD Strategic Options; (2c) REDD Implementation Framework; (2d) Social and Environment Impacts;
3. Developing Reference Scenario;
4. Design Monitoring System: (4a) Emissions and Removals; (4b) Other Benefits and Impacts;
5. Schedule and Budget;
6. Designing Program Monitoring and Evaluation Framework.

Of the six components, the first (1b) component, Stakeholders Consultation and Preparation was carried out by consortium members of seven organizations – Nepal Federation of In-

indigenous Nationalities (NEFIN), Federation of Community Forest Users' Nepal (FECOFUN), Himalayan Grass-Roots Women's Natural Resources Management Association (HIMAWANTI), Association of Collaborative Forest Users' Nepal (ACOFUN), Dalit Alliance for Natural Resources (DANAR), Nepal Foresters' Association (NFA) and Forest Action.

The other components were carried out by different individual experts and institutions. The activities of different components of the RPP were finalized and submitted to the World Bank through the mechanism of Forest Carbon Partnership Facilities (FCPF) on 19 April 2010.

Under the component of 1b, a total of six main activities were conducted—16 Awareness and Consultation Workshops, 25 Expert Consultations, two Local and National Level Resource Center Assessments, six Validation Workshop including developing and piloting of outreach materials such as brochure, leaflets, poster, flip chart, radio programs, documentary and articles.

The proposed activities on the components 1b, were consultation and validation workshops, public hearing, public notice, round table meeting, training curricula review, trainings, and capacity building of academic institutions, radio program, visual program, articles, outreach materials and special journal issues.

The draft report prepared by the various components have showed some hesitance to openly accept the rights of the indigenous peoples as secured by the ILO 169 and UNDRIP. Such a hesitation is realized especially over the indigenous peoples' access to the resources as the right holders and recognition of the indigenous peoples' traditional knowledge and skills for the sustainable management of the forest. However, indigenous peoples' representation in the REDD Working Cell has been remarkably positive in being able to raise indigenous voices and issues.

In most of the REDD stakeholders' meetings conducted by the National REDD Cell in partnership with the civil society organizations, the indigenous peoples found the platform to raise their rights-related issues. NEFIN has been successful in invit-

ing the government delegates to speak in favor of the indigenous peoples during the formation of REDD negotiation text in International Indigenous Peoples' Forum on Climate Change (IIPFCC) meeting COP 15 in Copenhagen.

In addition, the NEFIN has already conducted two national level consultation programs in partnership with National REDD Cell.¹² The impact of conducting such program is that it has brought the issues of indigenous peoples, particularly their access to the forest and promotion of their traditional practices for the sustainable forest management to the government agencies. The rights of the indigenous peoples secured by the international treaties and conventions like UNDRIP and ILO 169 are important to be recognized and implemented by National REDD Strategies in Nepal.

Apart from the process in line with RPP, other national REDD players like FECOFUN, ICIMOD and ANSAB implemented the pilot project, "Design and Setting of a Governance and Payment System for Nepal's community Forest Management under REDD" in Charnawati watershed in Dolakha, Ludikhola watershed in Gorkha and Kayarkhola in Chiwan, covering 13,970 ha.¹³

Indigenous Peoples and REDD

The presence of indigenous peoples in the Community Forest Management Groups is very generally very minimal in areas where non-indigenous peoples are dominant. Even in the community forest users groups of some of the districts like Burdiya, where more than 90 per cent peoples are indigenous peoples, there is nominal participation in decision making bodies of the community forest users groups. As such the traditional forest management practices of indigenous peoples are highly impacted upon by the community management policies and programs supported by the decision making bodies. One of the participants in our community level consultation meeting in Burdiya on 19 March 2010 said, "We are no longer allowed to fish in the river and practice our traditional occupation of sieving cold flacks for our survival and we are bound to seek for other labor." However, indigenous peoples in the area where less influenced by

the non-indigenous peoples are still very close to the forest and practice traditional forest management.

Although REDD players including the National Forestry and Climate Change Cell present and on the REDD in Nepal, indigenous peoples are not really aware of the impact of REDD in the forest management practices of indigenous peoples. If the issues of the indigenous peoples are not addressed properly in the process of REDD mechanisms and the formation of National REDD strategies to include related policies and programs respecting the rights of the indigenous peoples over their customary practices, forest management through indigenous traditional occupation, knowledge, skills and customary practices, such mechanism will have negative impact. Therefore, the effective role of indigenous peoples in the lobby and advocacy with the concerned Government Agencies in collaboration with other REDD players like civil society organizations, non-governmental organization is important to ensure the rights of the indigenous peoples enshrined by ILO 169 and UNDRIP in Nepal.

ISSUES & CHALLENGES

In context of REDD development process in Nepal, one of the key issues is the safeguarding of the indigenous peoples' rights over the natural resources, customary practices and REDD strategic information. Keeping in mind this gravity, several issues in relation to the indigenous peoples and REDD are identified under the headings of sustainable livelihoods, natural resources management, awareness level and formation of national strategy and policy in the country.

The introduction of Private Forest Nationalization Act-1957 and Pasture Land Nationalization Act-1975 puts protection and legal recognition of indigenous peoples' customary laws and practices related to the forest at greater risk. In this connection, the recognition of indigenous peoples' traditional practices and rights over the resources asserted by ILO 169 and UNDRIP's contribution of forming National REDD strategies would be pivotal enable the continuance of the indigenous peoples traditional forest management system.

The reformation of the policy and program of the land and forest management in Nepal is under the priority list of the indigenous peoples for developing indigenous-friendly REDD strategies. At the same time, creating awareness among the indigenous peoples about the REDD and carrying it to the grassroots level to allow for their involvement in the decision making process remains as a challenge at present. The National REDD Forestry and Climate Change Cell outreach program under the component (1b) has proposed awareness programs on REDD through different activities. However, based on the prior experience of the national level outreach program done by National REDD Cell, whether or not these programs effectively reach the indigenous communities is still subject to question.

There is representation of indigenous peoples in the REDD Working Group and the REDD Forestry and Climate Change Cell under the MoFSC. Yet, it is feared that policies and programs shall be finalized based on the influence of the majority of non-indigenous people. At this juncture, it seems highly necessary for the indigenous peoples in country to play a very crucial role in pressurizing the Working Group, especially the REDD Forestry and Climate Change Cell to secure their rights over the natural resources as ensured by ILO 169 and UNDRIP. The development of indigenous peoples' position paper on REDD and submission to the concerned government agencies and REDD stakeholders during the National REDD consultation meeting has been good initiation for indigenous peoples to take active part in discussions and decision-making. Yet, it is premature to assume the indigenous peoples' position during the formation of National REDD strategies.

Since there is no representation for women in the Working Group of REDD Forestry and Climate Change Cell, the possibility of addressing the women's issues (or indigenous women's issues for that matter) in the National REDD processes is slim. The impact of climate change has been seen mostly on indigenous women, who are traditionally and culturally close to the nature particularly to part of the forest for which their livelihoods are closely intertwined. As such, the participation and consultation of women in the national REDD process is of vital import.

RECOMMENDATIONS

In order to overcome the problems and issues of indigenous peoples, their involvement in the REDD making process is necessary so that they may be given venue to exercise the crucial role in the dialogue to ensure the rights of indigenous peoples over the lands, forest, water, traditional knowledge and skills. For this, the regular follow-up of decision-making meetings of REDD Working Group is very essential. If it could be done so, the issues of indigenous peoples would be well articulated and illuminated on in the different component reports of RPP that outline the National REDD strategies.

The inclusion of indigenous peoples within the category of local communities will be greatly disadvantageous to the sector in light of of severe impacts of policy on the indigenous peoples. Right from the beginning, it is important to separate indigenous peoples from local communities and secure their identities. Awareness among the grass roots level indigenous people, who are directly or indirectly involved in the management of the community forests is very necessary in this regard. Such an awareness on REDD is equally necessary for local and national level leaders to build further capacity for negotiation and advocacy. It is even important as seen from the perspectives of ILO 169 and UNDRIP to ensure the indigenous peoples' rights.

It is important to reform the policies of climate change, forestry and land in line with the spirit of the objectives of ILO 169 and UNDRIP for the development of indigenous-friendly REDD strategies:

- While formulating the policies, plans and programs related to climate change and REDD, the state should provide constitutional, legal and administrative guarantee of ownership and indigenous peoples control over their waters, lands, forests and mineral resources as ensured by the ILO 169 and UNDRIP;
- The state should respect and recognize indigenous peoples' rights to self-determination through free, prior and informed consent (FPIC) and full and effective participation in formulating policies, plans, programs of

REDD and during its implementation, monitoring and evaluation;

- The state should ensure constitutional and legal recognition to symbiotic relations of indigenous peoples with their ancestral land, forest and water including traditional knowledge, skills, customs, customary legal systems while formulating policies, plans, and programs related to climate change and REDD;
- The state should recognize the traditional forest management systems of indigenous peoples while making policies, plans and programs with objective to control deforestation and degradation including the protection and management of forest resources;
- The state should ensure the effective participation of indigenous women while formulating policies, plans and programs and their implementation, monitoring and evaluation related to climate change and REDD.

For the effective REDD implementation after 2012, the following points need to be considered in advance:

- National laws and policies on land, forest and natural resources need to be reviewed and amended with obligations under international law so as to enable effective administrative and other measures for their implementation;
- There should be legal commitments from the government agencies to fully recognize and uphold the rights of indigenous peoples in national REDD strategies consistent with applicable international standards like ILO 169 and UNDRIP;
- The state should recognize and guarantee indigenous peoples' rights to tenure, control, management and the right to enjoy their traditional lands and territories, customary or community demarcated lands, territories and resources taking into account their historical relationships with their lands, territories and traditional cultural practices.

Endnotes

¹ Tharu, Magar, Newar, Tamang, Rai, Gurung, Limbu, Dhanuk, Sherpa, Kumal, Gharti/Bhujel, Rajbanshi/Koch, Sunuwar, Majhi, Chepang, Santhal/Satar, Ghangar/Jhangar, Gangai, Thami, Dhimal, Bhote, Yakkha, Darai, Danuwar, Tajpuriya, Thakali, Pahari, Chhantel, Bote, Baramu, Jirel, Dura, Meche, Lepcha, Kishan, Raji, Byashi, Sauka, Hyayu, Walung, Raute, Hyolmo, Kushbadiya, Kusunda.

² Out of the 43 identified indigenous peoples, five are from the Mountain region, 20 from the Hills, seven from the inner Terai and 11 from the Terai region. Among them, four have populations of one to 3.6 million, five have 0.1 million to 1.0 million, six have 50,000 to 100,000, 11 have 10,000 to 50,000, 13 have 1,000 to 10,000 and four have 164 to 660 populations.

³ "Protected Forest" means a National Forest declared by His Majesty's Government as a Protected Forest pursuant to this Act, considering it to be of special environmental, scientific or cultural importance.

⁴ "National Forest" means all Forests excluding Private Forests within the Kingdom of Nepal, whether marked or unmarked with Forest Boundary and the term shall also include waste or uncultivated lands or unregistered lands surrounded by the Forest or situated near the adjoining Forest as well as paths, ponds, lakes, rivers or streams and riverine lands within the Forest.

⁵ "Community Forest" means a National Forest handed over to a users' group for its development, conservation and utilization for the collective interest.

⁶ Accidental causes include carelessness in the use of cigarettes and matches, escape of fire from land being cleared for cultivation, smoldering charcoal left charcoal burners, as fire to smoke wild bees for honey collection, etc. Fires are deliberately set in forests to kill trees so that the dead wood could be used for fire wood, to induce new grass growth for cattle grazing, to clean forest for farming, to make firewood and fodder easier to collect and for hunting. Fire is also sometimes started maliciously by people with grudges or complaints against the forest owners or policies.

⁷ Kipat is essentially a form of communal tenure, as only members of certain ethnic groups are permitted to own land. Under, Kipat, land is held on a tribal, village, kindred or family basis, and individuals have definite rights in these lands by virtue of their membership in the relevant social unit (Regmi 1997).

⁸ Eight National Parks, four Wildlife Reserves, one Hunting Reserve, and three Conservation Areas (See Annex 15, box, 8) including

(seven buffer zones) have been established now in three ecological zones covering 27,874 km² or 18.33 per cent of the country's total land area. They are governed by the National Park and Wildlife Conservation Act-1973.

⁹ Objectives: Ensure rights and access of poor and unprivileged people in forestry program thorough social and economic empowerment. Support in equitable development for poverty reduction by increasing income of poor, dalits, indigenous peoples, ethnic communities etc.

¹⁰ Strategies and Policies Related to Poor: Spend fixed per cent of revenue obtained from forests, wildlife and biodiversity conservation for the benefits of the poor which are as follows: Increase access and over all benefits for poor to use opportunities of international commitments. Formulate livelihood plan with participation of dalits, indigenous people and ethnic communities in all mode of forest management. Use income from buffer zone for the benefits of the poor including indigenous and ethnic communities. Provide fix per cent of income from national forests for the development of poor.

¹¹ Opportunities: Use resources from forests for the benefits of the poor. Emphasize participation and livelihood activities for poor in community forests, watershed management, conservation areas, leasehold forests and landscape program.

¹² Debriefing the COP 15 with the position of indigenous peoples and next one sharing the indigenous peoples' position paper on REDD developed by the indigenous leaders during the Indigenous Peoples' National REDD Strategic Workshop.

¹³ See Project Brochure. Available from: <http://communityredd.net>.

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Annexes

Annex A. List of indigenous peoples of Nepal

S. No			
1.	Kisan	31.	Baramo
2.	Kumal	32.	Bahara Gaule
3.	Kushbadiya	33.	Bote
4.	Kusunda	34.	Bhujel
5.	Gangai	35.	Bhote
6.	Gurung	36.	Magar
7.	Chepang	37.	Majhi
8.	Chantyal	38.	Marphali Thakali
9.	Chhairotan	39.	Mugali
10.	Jirel	40.	Meche(Bodo)
11.	Jhangad	41.	Yakkha
12.	Dolpo	42.	Rai
13.	Tangbe	43.	Raute
14.	Tajpuriya	44.	Rajbanshi(Koch)
15.	Tamang	45.	Majhi
16.	Tin Gaule Thakali	46.	Larke
17.	Topkegola	47.	Limbu
18.	Thakali	48.	Lepcha
19.	Thami	49.	Lhopa
20.	Tharu	50.	Lhomi(Singsawa)
21.	Thudam	51.	Walung
22.	Danuwar	52.	Byanshi
23.	Darai	53.	Sherpa
24.	Dura	54.	Satr/Santhal
25.	Dhanuk/Rajbanshi	55.	Siyar
26.	Dhimal	56.	Sunuwar
27.	Newar	57.	Surel
28.	Pahari	58.	Hayu
29.	Free	59.	Hylmo
30.	Bankariya		

Source: (NFDIN Act 2002).

Annex B: Population of Indigenous Nationalities in Nepal

Indigenous nationalities	2001	Percent
Nepal	22736934	
Magar	1622421	7.14
Tharu	1533879	6.75
Tamang	1282304	5.64
Newar	1245232	5.48
Rai	635151	2.79
Gurung	543571	2.39
Limbu	359379	1.58
Dhanuk	188150	0.83
Sherpa	154622	0.68
Gharti/Bhujel	117568	0.52
Kumal	99389	0.44
Rajbanshi/Koch	97241	0.43
Sunuwar	95254	0.42
Majhi	72614	0.32
Danuwar	53229	0.23
Chepang	52237	0.23
Santhal/Satar	42698	0.19
Ghangar/Jhangar	41764	0.18
Gangai	31318	0.14
Thami	22999	0.10
Dhimal	19537	0.09
Bhote	19261	0.08
Yakkha	17003	0.07
Darai	14859	0.07
Tajpuriya	13250	0.06
Thakali	12973	0.06
Pahari	11505	0.05
Chhantel	9814	0.04
Bote	7969	0.04
Baramu	7383	0.03
Jirel	5316	0.02
Dura	5169	0.02
Meche	3763	0.02
Lepcha	3660	0.02
Kishan	2876	0.01
Raji	2399	0.01
Byashi Sauka	2103	0.01
Hyayu	1821	0.01
Walung	1148	0.01
Raute	658	0.00
H yolmo	579	0.00
Kushbadiya	552	0.00
Kusunda	164	0.00
Total	8454782	37.19

Source: (CBS 2001) Kathmandu.

Annex C. Ten Major Groups by Number

Ethnic/caste Groups	Population	Total
Chhetri	3593496	15.8
Hill Brahmin	2896477	12.7
Magar	1622421	7.1
Tharu	1533879	6.8
Tamang	1282304	5.6
Newar	1245232	5.6
Kami	895954	4.0
Yadav	895423	4.0
Musalman	971056	4.3
Rai Kiranti	635151	2.8
Total	14675439	68.7

Source: (CBS 2003) Population Monograph of Nepal, Volume I.

Annex D. Adaptive /Subsistence Strategies of Indigenous Peoples of Nepal

Adibasi/Janajati	Forag- ing	Horticul- ture	Pastor- alism	Agri- culture	Indus- trialism
1. Raute 2. Kusunda	+	-	-	-	-
1. Kusunda 2. Bankariya 3. Chepang	+/-	+	-	-	-
1. Thami 2. Raji, 3. Hyayu	+/-	+	-	+/-	-
1. Majhi 2. Bote	+/-	-	-	+	-
1. Jirel, 2. Larke, 3. Siyar, 4. Tangwe	-	-	+	+	+/-
1. Balung, 2. Topkegola 3. Thudam 4. Lhomi (Shinsawa) 5. Sherpa 6. Hyolmo 7. Dolpo, 8. Bhote 9. Lhopa 10. Mugali	-	-	+	-	+
1. Gurung, 2. Byansi	-	-	+	+	+

Source: Adapted from Institute for Integrated Development Studies (IIDS).

Note: +means main strategy of subsistence

-does not mean main strategy of subsistence

+/-means some groups or group members are involved in this strategy

Annex E. Population by mother tongue in Nepal

S. No	Mother tongue	Total
1	Nepali	11053255
2	Maithili	2797582
3	Bhojpuri	1712536
4	Tharu(Dagaura/Rana)	1331546
5	Tamang	1179145
6	Newar	825458
7	Magar	770116
8	Aawadi	560744
9	Bantawa	371056
10	Gurung	338925
11	Limbu	333633
12	Bajika	237947
13	Urdu	174840
14	Rajmanshi	129829
15	Sherpa	129771
16	Hindi	105765
17	Chamling	44093
18	Santhali	40260
19	Chepang	36807
20	Danuwar	31849
21	Jhangar/Dhangar	28615
22	Sunuwar	26611
23	Bangla	23602
24	Marwadi(Rajasthani)	22637
25	Majhi	21841
26	Thami	18991
27	Kulung	18686
28	Dhimal	17308
29	Angika	15892
30	Yakkha	14648
31	Thulung	14034
32	Sangpang	10810
33	Bhujel/Khawas	10733
34	Darai	10210
35	Khaling	9288
36	Kumal	6533
37	Thakali	6441
38	Chantyal	5912
39	Nepali sain Bhasa	5743
40	Tibetan	5277
41	Dumi	5271
42	Jirel	4919
43	Bambule/umbule	4471
44	Puma	4310

45	Hyolmo	3986
46	Nachhiring	3553
47	Dura	3397
48	Meche	3301
49	Pahari	2995
50	Lepcha/Lapche	2826
51	Bote	2823
52	Bahing	2765
53	Koi/Koyu	2641
54	Raji	2413
55	Hayu	1743
56	Byanshi	1734
57	Yamphu/Yamphe	1722
58	Ghale	1649
59	Khariya	1575
60	Chhiling	1314
61	Lohorung	1207
62	Panjabi	1165
63	Chinese	1101
64	English	1037
65	Mewahang	904
66	Sanskrit	823
67	Kaike	794
68	Raute	518
69	Kisan	489
70	Churauti	408
71	Baram/Marmu	342
72	Tilung	310
73	Jero/Jerung	271
74	Dungmali	221
75	Oriya	159
76	Lingkhim	97
77	Kusunda	87
78	Siddi	72
79	Koche	54
80	Hariyanwi	33
81	Magahi	30
82	Sam	23
83	Kurmali	13
84	Kagate	10
85	Jhonkha	9
86	Kuki	9
87	Chhintang	8
88	Mizo	8
89	Nagamese	6
90	Lhomi	4
91	Assamise	3
92	Sadhani	2
93	Unknown Language	168340