

Training Manual on

BUSINESS AND HUMAN RIGHTS

Prepared for Indigenous Peoples'
Human Rights Defenders



Training Manual on **BUSINESS AND HUMAN RIGHTS**

**Prepared for Indigenous Peoples'
Human Rights Defenders**

Prepared by: Dammar Lohorung, Bhim Rai, Shankar Limbu, Dinesh Kumar Ghale, Tahal Thami

Proofreading: Elaine Bolton

HURIDOCS CIP data

Title: Training Manual on Business and Human Rights

Number of pages: 62

Language: English

Index: 1. Indigenous Peoples – 2. Human rights – 3. Human rights defenders

Geographical area: 1. Nepal – 2. World

Publication date: December 2020

ISBN: 978-87-93961-22-7

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

Anamnagar, Kathmandu, Nepal

Post Box: 11179

Tel: +977 1 5705510

Email: lahurnip.nepal@gmail.com

Website: www.lahurnip.org

Supported by: International Work Group for Indigenous Affairs (IWGIA)

Copenhagen, Denmark

Tel: (+45) 53 73 28 30

Email: iwgia@iwgia.org

Website: www.iwgia.org

This manual was produced with financial support from the Danish Ministry of Foreign Affairs (DANIDA).



.....

The reproduction and distribution of information contained in this report is welcome for non-commercial purposes and as long as the source is cited. The reproduction of the full report without the consent of IWGIA is however not allowed.

© LAHURNIP, 2017

Cover photograph: In 2019, the European Investment Bank Complaint Mechanism (EIBCM) recognised the complaints of Indigenous and non-indigenous communities in Lamjung district, Gandaki Province, Nepal, against a power transmission line being developed by the Nepalese Electricity Authority (NEA) and funded by the EIB. This official recognition is a direct result of community mobilisation actions demanding that hydropower sector projects in their region respect their rights.

All photos by IWGIA

Design and layout: www.nickpurserdesign.com

Contents

Section one	5
How to use this training manual	6
Section two	8
Program schedule	9
Micro-teaching plan – an overview	10
Section three	13
Detailed instruction plan for the teaching & learning process	14
Day one	14
<i>First session</i>	16
<i>Second session</i>	22
<i>Third session</i>	24
<i>Fourth session</i>	27
Day two	30
<i>First session</i>	31
<i>Second session</i>	35
<i>Third session</i>	38
<i>Fourth session</i>	44
Day three	49
<i>First session</i>	50
<i>Second session</i>	54
<i>Third session</i>	56
<i>Fourth session</i>	58
Section 4	60
References	61

Abbreviations

BHR	Business and Human Rights
CAO	Compliance Advisor/Ombudsman
CBD	Convention on Biological Diversity
CIAA	Commission for the Investigation of Abuse of Authority
CSR	Corporate Social Responsibility
DDP	Due Diligence Process
EU	European Union
FPIC	Free, Prior and Informed Consent
ILO	International Labour Organization
IPOs	Indigenous Peoples Organization
IPs	Indigenous Peoples
IWGIA	International Work Group for Indigenous Affairs
LAHURNIP	Lawyers' Association for Human Rights of Nepalese Indigenous Peoples
NAP	National Action Plan
NHRC	National Human Rights Commission
NWC	National Women's Commission
OECD	Organisation for Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
PPP	PowerPoint Presentation
Rtl	Right to Information
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples, 2007
UNGPs	United Nations Guiding Principles on Business and Human Rights
UPR	Universal Periodic Review
VDCs	Village Development Committees

SECTION ONE



How to use this training manual

Introduction

This training manual is on Business and Human Rights (BHR). It is meant for trainers but will be equally useful for those interested in knowing more about business and human rights or business activities, and also for victims so that they know their rights with regard to development aggression or in terms of respecting the human rights of communities vulnerable to development activities. This manual is divided into four sections. The first section provides instructions to the trainer; the second explains the content of the training; the third focuses on the training process; and the fourth provides some further reading and reference materials.

Intensified development projects have resulted in massive expropriation of land and natural resources around the world. This expropriation, in the name of development, is taking place in areas typically inhabited by Indigenous Peoples. Different private and business entities are largely involved in this expropriation. Due to increasing globalization and privatization, multinational corporations have also been investing in these development activities.

Business is considered to be the backbone of a country's economy. Large-scale profit-making projects, in particular, are taking place in the name of development the world over. In developing countries such as Nepal, development work is beneficial and necessary for the country's economic development. But the fact is, business is meant for profit. It ignores human rights. However, there is now growing demand that all national and international companies or corporations should show concern for human rights while doing business.

Since the United Nations Guiding Principles on Business and Human Rights were promulgated, there have been growing concerns over human rights in business. Indigenous Peoples form the highest proportion of victims of such business activities. Development projects, along with those undertaken by multilateral development banks and private sector investors, are creating suffering among the Indigenous Peoples of Nepal. Such development projects are resulting in widespread human rights violations, including displacement from their customary land, and irreversible loss of their traditional lifestyles, livelihoods and identity.

Development initiatives must be Indigenous-friendly. Awareness therefore absolutely needs to be raised among Indigenous communities and business sectors. It is with this in mind that this training manual has been prepared.

Concerns relate largely to how to make development initiatives environmentally- and Indigenous-friendly. Business entities and corporations need to change their behaviour and be sensitive to the human rights of Indigenous Peoples. Before embarking on any development project, they must be aware of Indigenous Peoples' rights in relation to business and development. It is with due consideration of this that this training manual has been prepared.

Objectives of the training manual

This training manual is aimed at Indigenous Peoples' Human Rights Defenders (IPH RDs), Corporate Social Responsibility (CSR) monitors and potential trainers on Indigenous Peoples' issues. The main objectives of the training are to:

- produce trainers on business and human rights (BHR) at local level who can give instruction on the different advocacy steps to be taken on the rights of Indigenous Peoples and local communities;
- strengthen the capacity of the trainees with regard to the adverse impacts of development projects and

- businesses so that they are able to identify issues and provide documentation;
- develop tools for monitoring and engage in monitoring the adverse impacts of development projects and businesses, and
 - develop local-level trainers and provide step-by-step direction to advance the rights of Indigenous and local communities.

Instructions for the trainer

- Trainers first need to be well prepared. For the residential training, they will need activities related to mental and physical exercises (maybe an icebreaker, focus enhancer, details on the background etc.) in the morning session. They should be well prepared prior to engaging in such activities. After the physical exercise, they should ask the participants to share their experiences during the training.
- Trainers should adhere to the training guidelines.
- Trainers can draw on additional training materials related to the reading list given in the training manual.
- The training is divided into four sections. Depending on the interests of the participants, the timeframe can be shortened or extended.
- Trainers can use the training manual to draw on their skills and capacities to the full.
- Prior to the end of the training, participants should be asked to prepare an individual action plan for implementation after the training.
- At the end, conduct an evaluation of the training and official closure.

Flexibility

This manual has suggested reading materials that will be of use to the trainer. This does not, however, mean that these are sufficient or that the outlined teaching methods are complete. Depending on the context, other relevant and necessary materials can be added and adapted. Depending on the level, linguistic and cultural diversity, identity and need of the participants, the materials and method can be adapted to the context.

SECTION TWO



Program Schedule

Day one

09:00-11:00	Opening, welcome and introduction, establish ground rules, gather expectations and present objectives and topics of the training
11:00-12:30	Concept of Indigenous Peoples' Rights
12:30-01:30	Lunch Hour
01:00-03:00	Business and Human Rights
03:00-03:15	Tea break
03:15-03:45	UN Guiding Principles on Business and Human Rights
03:45-04:45	UN Guiding Principles on Business and Human Rights (Pillar 1)
04:45-05:00	Recap of the day

Day two

09:00-09:15	Review of the previous day
09:15-10:45	UN Guiding Principles on Business and Human Rights (Pillar 2)
10:45-11:00	Tea break
11:00-12:00	UN Guiding Principles on Business and Human Rights (Pillar 3)
12:00-12:30	Corporate Social Responsibility (CSR)
12:30-01:30	Lunch Hour
1:30-03:00	Remedial mechanisms
03:00-03:15	Tea break
03:15-04:45	Case studies
04:45-05:00	Recap of the day

Day three

09:00-09:15	Review of the previous day
09:15-10:45	Role of media and production of media-friendly materials
10:45-11:00	Tea break
11:00-12:30	Drafting complaint letters for remedy
12:30-01:30	Lunch Hour
1:30-03:00	Making an Action Plan and Strategy
03:00-03:15	Tea break
04:45-05:00	Recap/review of training and close

Micro-Teaching Plan – an Overview Day one

Time	Topic	Objectives of the session	Methodology	Materials
09:00-11:00	Opening, welcome and introduction, establish ground rules, gather expectations and present objectives and topics of the training Concept of Indigenous Peoples' Rights	<ul style="list-style-type: none"> • Explain the objectives of the training. • Share trainees' expectations of the training. • Trainers elaborate on the training topics and explain how the training can meet the trainees' expectations. • Groups are formed for the purpose of the training and ground rules established. • Participants learn about the concept of Indigenous Peoples' rights and are able to explain to others • They can talk about ILO C169 and UNDRIP • Participants can differentiate/categorize based on the given cases 	<ul style="list-style-type: none"> • Master of Ceremonies (MC) • Lecture • PowerPoint presentation (PPP) • Questions and Answers • Group work • Group work • Case study • PowerPoint presentation (PPP) • Questions and Answers • Documentary 	<ul style="list-style-type: none"> • Handouts • Laptop • Digital copy of the documentary • Slides (handouts) • Meta cards • Markers • Pens • Multimedia <p>Use meta cards for the introduction, write the following information Name: Organization: Experience:</p> <ul style="list-style-type: none"> • What are the motivating factors for participating in the training? • Reading materials on concept of rights • Laptop • Digital copy of case study • Slides (handouts) • Digital copy of documentary • Meta cards • Markers etc.
11:00-12:30	Concept of Indigenous Peoples' Rights	<ul style="list-style-type: none"> • Participants learn about the concept of Indigenous Peoples' rights and are able to explain to others • They can talk about ILO C169 and UNDRIP • Participants can differentiate/categorize based on the given cases 	<ul style="list-style-type: none"> • Group work • Case study • PowerPoint presentation (PPP) • Questions and Answers • Documentary 	<ul style="list-style-type: none"> • Reading materials on concept of rights • Laptop • Digital copy of case study • Slides (handouts) • Digital copy of documentary • Meta cards • Markers etc.
Lunch hour				
01:30-03:00	Business and Human Rights	<ul style="list-style-type: none"> • Participants are able to explain Business and Human Rights. • Participants are able to distinguish the inter-relationship between Business and Human Rights and explain this to others. 	<ul style="list-style-type: none"> • Lecture • Brainstorming • Questions and Answers • Examples • Group work • PowerPoint presentation 	<ul style="list-style-type: none"> • Laptop • Multimedia • Handouts • Meta cards • Flipchart • Markers • Reading materials on Business and Human Rights • Slides (handouts)
Tea break (15 minutes)				
03:15-03:45	UN Guiding Principles on Business and Human Rights	<ul style="list-style-type: none"> • Participants are able to explain the concept of the UN Guiding Principles on Business and Human Rights. 	<ul style="list-style-type: none"> • Lecture • Brainstorming • Questions and Answers • Examples 	<ul style="list-style-type: none"> • Laptop • Multimedia • Slides (handouts) • Meta cards • Flipchart • Markers • Reading/Reference materials on Business and Human Rights
03:45-04:45	UN Guiding Principles on Business and Human Rights (Pillar No. 1)	<ul style="list-style-type: none"> • Participants learn about the UN Guiding Principles on Business and Human Rights and its Pillar No. 1 and are able to explain this to others. 	<ul style="list-style-type: none"> • Lecture • Brainstorming • Questions and Answers • Examples • Experience sharing 	<ul style="list-style-type: none"> • Laptop, Multimedia • Slides (handouts) • Meta cards • Flipchart • Markers • Reading/Reference materials on Business and Human Rights
Recap/Review of the day (15 minutes)				

Day two

Time	Topic	Objectives of the session	Methodology	Materials
09:00-09:15	Review of the previous day	<ul style="list-style-type: none"> Participants are able to remember content/issues discussed the previous day. Participants are able to suggest weaknesses from the previous day. Participants are able to analyse the issues/content being discussed the previous day. 	<ul style="list-style-type: none"> Lecture Brainstorming Group work Presentation 	<ul style="list-style-type: none"> Laptop Multimedia
09:15-10:45	UN Guiding Principles on Business and Human Rights (Pillar No. 2)	<ul style="list-style-type: none"> Participants learn about the UN Guiding Principles on Business and Human Rights and its Pillar No. 2 and are able to explain this to others. 	<ul style="list-style-type: none"> Lecture Brainstorming Questions and Answers Examples Experience sharing 	<ul style="list-style-type: none"> Laptop Multimedia Slides (handouts) Meta cards Flipchart Markers Reading/Reference materials on Business and Human Rights
Tea break (15 minutes)				
11:00-12:00	UN Guiding Principles on Business and Human Rights (Pillar No. 3)	<ul style="list-style-type: none"> Participants learn about the UN Guiding Principles on Business and Human Rights and its Pillar No. 2 and are able to explain this to others. 	<ul style="list-style-type: none"> Lecture Brainstorming Questions and Answers Examples Experience sharing 	<ul style="list-style-type: none"> Laptop Multimedia Slides (handouts) Meta cards Flipchart Markers Reading/Reference materials on Business and Human Rights
12:00-12:30	Corporate Social Responsibility (CSR)	<ul style="list-style-type: none"> Participants learn about Corporate Social Responsibility (CSR) and are able to explain it to others. 	<ul style="list-style-type: none"> Lecture Questions and Answers Experience sharing 	<ul style="list-style-type: none"> Laptop Multimedia Slides (handouts)
Lunch hour				
01:30-03:00	Remedial mechanisms	<ul style="list-style-type: none"> Participants learn how to obtain remedy in case of violation of rights and can explain this to others. Participants learn about the bodies/mechanisms responsible for remedy. 	<ul style="list-style-type: none"> Lecture Brainstorming Questions and Answers Examples Documentary Experience sharing 	<ul style="list-style-type: none"> Laptop Multimedia Slides (handouts) Meta cards Flipchart Markers
Tea break (15 minutes)				
03:15-04:45	Writing case studies	<ul style="list-style-type: none"> Participants learn about human rights violations. Participants learn the skills needed to document cases. 	<ul style="list-style-type: none"> Lecture Brainstorming Questions and Answers Examples Experience sharing 	<ul style="list-style-type: none"> Laptop Multimedia Slides (handouts) Meta cards Flipchart Markers
Recap/Review of the day (15 minutes)				

Day three

Time	Topic	Objectives of the session	Methodology	Materials
09:00-09:15	Review of the previous day	<ul style="list-style-type: none"> Participants are able to remember content/issues discussed the previous day. Participants are able to suggest weaknesses from the previous day. Participants are able to analyse the issues/content being discussed the previous day. 	<ul style="list-style-type: none"> Lecture Brainstorming Group work Presentation 	<ul style="list-style-type: none"> Laptop Multimedia Slides (handouts)
09:15-10:45	Role of media and the production of media-friendly material	<ul style="list-style-type: none"> Participants understand the importance of the media. Participants are able to produce materials for the media. 	<ul style="list-style-type: none"> Lecture Brainstorming Questions and Answers Examples Group work Experience sharing 	<ul style="list-style-type: none"> Laptop Multimedia Slides (handouts) Meta cards Flipchart Markers
Tea break (15 minutes)				
11:00-12:30	Drafting complaint letters for remedy	<ul style="list-style-type: none"> Participants are able to draft memos and complaints to relevant bodies for remedy. 	<ul style="list-style-type: none"> Lecture Brainstorming Questions and Answers Examples Experience sharing 	<ul style="list-style-type: none"> Laptop Multimedia Slides (handouts) Meta cards Flipchart Markers
Lunch hour				
01:30-03:00	Drafting an Action Plan and Strategy	<ul style="list-style-type: none"> Participants learn how to design and draft an action plan and strategy. 	<ul style="list-style-type: none"> Lecture Brainstorming Questions and Answers Examples Experience sharing 	<ul style="list-style-type: none"> Laptop Multimedia Slides (handouts) Meta cards Flipchart Markers
Tea break (15 minutes)				
03:15-05:00	Recap/Review of training and close	<ul style="list-style-type: none"> Participants give their opinion on the three days of training. Training will be wrapped up. 	<ul style="list-style-type: none"> Speech Questions and Answers 	<ul style="list-style-type: none"> Laptop Questionnaires Meta cards Flipchart Markers etc.

SECTION THREE



Detailed instructional plan for the teaching & learning process

Day one

Time: 2 hours

Objectives of the session:

By the end of the session, participants will be able to:

- explain the objectives of the training;
- share their expectations of the training;
- understand the extent to which the training can fulfil their expectations, and
- have formed groups for the purpose of the training and agreed on the ground rules.

Methodology: Presentation, Brainstorming, Question and Answers, Group Work

Materials: PPP Multimedia, Documentary, Meta Cards, Markers, etc.

Teaching and learning process:

Activity 1: Opening - 40 min

- Make sure all participants are in the room before you start. Greet and welcome participants and then explain the background and how the training has been organized.
- Invite guests to the stage and ask the keynote speaker (you should have already decided who will be your keynote speaker (based on the local dynamics) to open the training (Indigenous way/prayer or lighting candles or banner opening, whatever is appropriate) and make some opening remarks.

Activity 2: Introduction - 30 min

- Introduce yourself first and ask participants to do the same. Make sure the participants do not go into too much detail. Remind them to be brief if necessary and emphasise that they will have enough time to build a rapport with each other in the coming three days.

The introduction could include: name, organization/ group they belong to, one factor that motivated them to come along to the training, motivating factors behind participating on issues of BHR

Activity 3: Objectives and expectations - 35 min

- Explain how sharing of personal expectations helps the facilitator to meet those needs whenever possible. Remind them that we all carry our expectations with us and when we first heard of this training, we were curious, or had some concerns and expectations from the course. Encourage participants to think about four areas (as follows) and jot these down in their notebooks (the process could be altered by asking small groups to discuss these four areas and have one of the group members jot down ideas so that note takers from each group then share the group expectations in plenary later):
 - Process (how they would like to learn over the three days)
 - Knowledge (what they would like to learn)
 - Skills (what skills they want to develop as a result of this training)
 - Changes (what changes they want to see in their personal, family, community and organizational life as a result of this training).
- After five minutes of brainstorming, ask everyone (individual or group) to share their expectations with the

plenary. Start with one aspect first (for example: process) and go around all the groups gathering their expectations in this regard. Continue to make notes on the flipchart as the group members share their ideas. Then gradually repeat for the remaining concerns (knowledge, skills and change) and make a note of these expectations.

- Read the expectations aloud and highlight commonalities in their individual expectations.
- Present the training objectives and the schedule. Relate the participants' expectations to the schedule and explain how the training will address these expectations.

Activity 4: Producing ground rules - 15 min

In order to conduct three days of training amicably, the following ground rules are needed:

- a. Time
- b. Management
- c. Reporting
- d. Speaker
- e. Others

Concept of Indigenous Peoples' Rights

Objectives of the session:

By the end of the session, participants will be able to:

- understand the concept of Indigenous Peoples' rights and be able to teach it to others, and
- be able to differentiate/categorize rights violations based on given cases.

Methodology: Group work, Case studies, PowerPoint Presentation, Questions and Answers, Documentary.

Materials: Prepared materials on the concept of rights, Case studies, PowerPoint Presentation, Multimedia, Documentary, Newsprint, Markers etc.

Teaching and learning process:

Activity 1: Understanding the concept of Indigenous Peoples' rights - 35 min

- Ask the participants what they understand by Indigenous Peoples' rights. Write down their opinions and then read them out.
- Lead a discussion based on the opinions expressed by the participants and present the prepared materials.
- At the end, ask if there are any questions.

Activity 2: Teach the participants about the provisions of ILO C169 and UNDRIP - 45 min

- Ask the participants about ILO C169 and UNDRIP, whether they have any idea about their provisions or not.
- Jot down the participants' answers and then read them out loud.
- Lead a discussion based on the existing provisions.
- At the end ask if there are any questions.

Activity 3: Summarize - 10 min

- Based on the participants' responses, the trainer should de-brief on the source of rights.
- At the end, ask if there are any questions.

Concept of Indigenous Peoples' Rights

As a distinct community, Indigenous Peoples have distinct human rights and fundamental freedoms. These rights are referred to as "collective rights" and include ILO Convention No. 169 and the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP). International communities have adopted the declaration and convention to ensure equal rights for Indigenous Peoples. When Indigenous Peoples are denied the rights enshrined in these documents, they are unable to enjoy their collective way of life and live in dignity with equal rights. They also enjoy the rights enshrined in other human rights laws. More recently, various multinational financial institutions such as the World Bank, Asian Development Bank, and others such as the Norwegian Agency for Development Cooperation (NORAD) have adopted separate policies on Indigenous peoples. These policies are applicable in areas intended for any kind of development projects funded by these institutions, if inhabited by Indigenous Peoples. These policies largely provide that no works should be conducted that negatively impact on Indigenous Peoples without first obtaining their free, prior and informed consent.

Source of IP Rights

Conventions and international human rights instruments, treaties, agreements, customary laws.

National constitutions and laws also provide for the rights of Indigenous Peoples. The rights are further included in agreements made between governments and Indigenous Peoples, such as the 1840 Treaty of Waitangi, an agreement signed between the British Crown and Maori Indigenous Peoples; the 1774 Treaty between Yakthung (Limbu) Indigenous Peoples and the then Government of Nepal, and various other agreements signed between Indigenous Peoples and governments.

International laws, national constitutions and laws, treaties and agreements are all sources of Indigenous Peoples' rights, including the customary laws of Indigenous Peoples.

Indigenous Peoples have a distinct world vision. They respect all living and non-living beings on Mother Earth. They have a distinct cultural, spiritual and belief system. More importantly, they have a profound spiritual connection to the land, territories and resources. It can therefore be said that human rights cover the rights of human beings but Indigenous Peoples' rights cover not only the rights of human beings but also those of all other living and non-living beings.

Collective rights

The term "collective rights" refers to the rights an individual gains by virtue of being a member of a certain community. Individual rights and collective rights go hand-in-hand. Collective rights are important for Indigenous Peoples' existence and progress. If an individual right is violated, an individual may be victimized but if a community's rights are violated then all members of the community are victimized. For instance, the *Muluki Ain* (National Code) promulgated in 1853 by then Prime Minister Junga Bahadur Rana and then King Surendra Bikram Shah brought in a level of caste hierarchy known as "*Masinya*" (those who can be enslaved) and "*Namasinya*" (those who cannot be enslaved), "*Matawali*" (alcohol drinking "caste" groups) that denied Indigenous Peoples equal status in the State apparatus and access to State power and resources. Similarly, the collective rights of Indigenous Peoples refer to the rights to self-determination, autonomy, self-rule, free prior and informed consent, the right to land and so forth. These collective rights of Indigenous Peoples have been guaranteed in ILO Convention No. 169 and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). In addition, the following rights are included in the collective rights of Indigenous Peoples:

- Right to land and natural resources
- Right to self-determination
- Right to free, prior and informed consent
- Right to customary laws and institutions
- Right to a belief and value system
- Right to customary economic, social, cultural and linguistic activities
- Right to self-determined development

What is ILO Convention No. 169?

Because ILO Convention 107 of 1957 (Indigenous and Tribal Populations Convention) was based on assimilating Indigenous Peoples into “mainstream society”, it was revised to produce ILO Indigenous Convention No. 169, which is an international treaty adopted by the International Labour Organization during its conference in 1989. It fully respects the distinct identity of Indigenous Peoples with collective rights. ILO Convention No. 169 comprises 44 articles. It aims to respect and ensure that Indigenous Peoples exercise full control over their customary institutions, way of life, and economic progress, including their language and culture, in accordance with their distinct identities. This convention was also adopted to ensure that Indigenous Peoples enjoy their fundamental human rights, including respect for their customary laws, belief systems and customs. The convention covers a wide range of issues such as the characteristics of Indigenous Peoples, including consultation, participation, right to land, territories and natural resources and so on.

Nepal was the first country in Asia and the second in Asia-Pacific, after Fiji, to ratify ILO Convention No. 169. The reasons behind Nepal’s ratification of the convention were: 1) that the convention, ratified by the Nepalese Parliament in 2007, provides a framework for government; 2) to establish an inclusive state; 3) to respect the rights of Indigenous Peoples; 4) for a lasting conclusion to the ongoing conflict; 5) to protect and respect Indigenous Peoples’ distinct culture, ways of life and traditional lifestyle; and 6) to protect, promote and ensure their right to self-determination, including respect for their identity. A case can be filed before national and international bodies for remedy if the Indigenous Peoples’ rights provided for in the convention are violated.

However, Nepal has not yet implemented the provisions of ILO Convention No. 169. Although the National Human Rights Action Plan formulated by the Office of the Prime Minister clearly states that a national action plan for implementing ILO Convention No. 169 should be adopted in order to ensure Indigenous Peoples’ rights, and that existing laws should be revised and amended and new laws formulated, nothing has been achieved in practice. Neither the government and its officials, nor business enterprises, are in the least concerned about the convention; on the contrary, they are opposed to it.

Objectives of the Convention

- To promote peace and conflict resolution, including sustainable development, through collaboration and cooperation with Indigenous Peoples.
- To promote respect and recognize Indigenous Peoples’ way of life and identity (lands, territories and resources, language, belief systems, culture, customs, customary laws, customary institutions), and ensure their fundamental right to control and use the land, territories and natural resources without external interference.
- To ensure meaningful consultation, in some cases leading to free, prior and informed consent, involvement and participation of Indigenous Peoples.
- To develop Indigenous Peoples’ capacity, enabling them to share the derived economic benefits.

Nepal's responsibilities under the Convention

Being a party to ILO Convention No. 169, Nepal has a responsibility to implement the treaty's provisions through its constitution and laws. Section 9 of Nepal's Treaty Act 1990 states that should the provisions of Nepali laws contradict an international treaty to which Nepal is a party, the provisions of the treaty shall prevail. The State should implement the provisions of the convention as follows:

- Respect: the State should respect all the provisions of the convention.
- Promote: the State has a duty to disseminate the provisions of the convention.
- Protect: the State must provide remedy if any of the rights in the convention are violated.
- Implement: the State has a duty to enact new laws or amend those existing to ensure implementation of the convention.

Special Provisions on Business and Human Rights

The convention includes special rights to land, territories and natural resources, including the rights to education and communication, employment, traditional occupation, social security and health, access to justice, right to consultation and participation and so forth. In order to implement these rights, the government has a duty to make the necessary arrangements, including laws and policies, with the consent, consultation and participation of Indigenous Peoples.

The elements of consultation include:

- Prior consultation
- Honest consultation
- An appropriate process
- Consent sought from the representative organization
- Provision of information
- Participation
- Consent, if eviction and resettlement are required

Elements of Participation:

- Meaningful participation in all decision-making processes
- Participation in policy, program and planning, implementation and evaluation
- Right to participation when passing laws or making decisions that affect Indigenous Peoples

Indigenous Peoples' Participation:

- Accountable to the Indigenous Peoples
- Nominated by the communities
- Nomination made through own processes

Right to land and natural resources

The State must recognize the rights of Indigenous Peoples to the land, territories and natural resources they have been using and controlling for generations. The identity, culture, language, belief systems, existence and way of life of Indigenous Peoples all have a profound spiritual connection with the land, territories and

natural resources. Indigenous Peoples have collective rights over the land, territories and natural resources. Any appropriation of land, territories and natural resources must not therefore have a negative impact on Indigenous Peoples. Free, prior and informed consent must be obtained in advance.

UN Declaration on the Rights of Indigenous Peoples (UNDRIP), 2007

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the UN General Assembly in 2007. The drafting of the declaration followed more than 20 years of discussion among governments, Indigenous leaders and international experts. Indigenous Peoples played an enormous role in developing this declaration. The declaration is a normative international standard that guarantees the inalienable rights of Indigenous Peoples. The declaration consists of 24 sections and 46 articles. The rights provided for in the declaration are the basic and fundamental rights of Indigenous Peoples, including rights to distinct identity, collective way of life, self-determination, autonomy, self-rule, ownership and control over lands, territories and resources, free, prior and informed consent, participation, customary laws, customary institutions, Indigenous knowledge, Indigenous language, Indigenous health systems, and equal rights for Indigenous women, children, and the elderly.

Rights concerning development and human rights

- Indigenous Peoples should enjoy all rights individually or collectively guaranteed in the UNDRIP, the Universal Declaration of Human Rights and international human rights laws.
- Indigenous peoples have the right to self-determination, autonomy and self-rule.
- Indigenous peoples have the right to free, prior and informed consent (FPIC).
- Indigenous peoples have the right to self-determined development, which includes the right to decide, prioritize and strategize their own development.
- Indigenous peoples have the right to ownership, control over and use of the land, territories and natural resources, and the State should recognize this right.
- Indigenous Peoples have the right to customary law and self-government systems.
- Indigenous Peoples should not be displaced forcefully from their land and territories. The resettlement of Indigenous Peoples should not be carried out without their free, prior and informed consent. Even after reaching an appropriate judicial compensation agreement, Indigenous Peoples must be given an opportunity to return to their traditional lands and territories if possible.
- Indigenous Peoples have the right to reclaim their traditional lands and territories when they are seized without their free, prior and informed consent. If this is not possible, they are entitled to appropriate compensation.

Right to participation provided for in the Declaration

- Indigenous Peoples have the right to participate through their own representatives, chosen by their own distinct customary process.
- Participants shall be freely chosen without external interference.
- Participation shall come from their own representative and customary institutions.
- There shall be respect for Indigenous Peoples' customs and customary laws.
- Their representatives must be accountable to the community in question, including with regard to transparency.

Right to land, territories and natural resources provided for in the Declaration

- Indigenous Peoples should not be displaced forcefully from their land and territories. Activities should only be undertaken in their areas after obtaining their free, prior and informed consent. Moreover, Indigenous Peoples should be paid proper compensation or be given an option to return to their traditional land and territories.

- The State should provide Indigenous Peoples with security from forced displacement and deprivation of their lands, territories and natural resources, and they have the right to return to their lost lands and territories.
- Indigenous Peoples shall have the right to repatriation to the traditional lands and territories, including regaining the control over ceremonial objects seized without obtaining their free prior and informed consent.
- The State has a duty to educate Indigenous Peoples regarding acts, regulations, policies, and documents Indigenous Peoples relevant to them, in a language they understand.
- Indigenous Peoples have a right to participate in all law and policymaking, including in all decision-making that directly affects them.
- When making laws or taking and implementing any administrative decision, Indigenous Peoples have the right to free, prior and informed consent.
- Indigenous Peoples have a right to repatriation if they are displaced from their traditional land and territories, and deprived of their livelihood.
- Indigenous Peoples have a right to participate, decide and prioritize their development, health, housing, economic and social development.

What is FPIC?

The term free, prior and informed consent (FPIC) means the right of a concerned Indigenous community to say “yes” or “no” or to refuse to say “yes” or “no”. This is also a process and one way of exercising the “right to self-determination”.

To whom does it relate?

- Indigenous Peoples

How does it take place?

- Through their representative organizations and representatives nominated by the Indigenous community in question via their own traditional processes.
- Through their customary processes whereby the Indigenous communities in question can be consulted.
- Through a process that Indigenous Peoples can understand.

When does it occur?

- Prior to making any legal and/or administrative intervention through law, regulation, policy, plan (including development plan) or program.
- Prior to implementing laws, regulations, policies, plans and programs.
- Prior to carrying out any monitoring and evaluation.

Special Rights of Indigenous Peoples

- Ensure the socio-economic progress of Indigenous elders, women, children, youth and disabled.
- Give special consideration to the status of Indigenous elders, women, children, youth and disabled.
- Indigenous Peoples have the collective right to live in freedom, peace and security.
- Indigenous Peoples have the right not to be subjected to forced assimilation.
- Indigenous Peoples have the right to identity.



Business and Human Rights

Objectives of the session:

By the end of the session, participants will be able to:

- explain about Business and Human Rights to others;
- teach others the inter-relationship between business and human rights.

Methodology: Lecture, Brainstorming, Questions and Answers, Documentary, Examples, Experience sharing.

Materials: Laptop, PPP handouts, Meta cards, Flipchart, Markers, Prepared materials on Business and Human Rights.

Teaching and learning process:

Activity 1: Understanding business and human rights - 45 min

- First ask participants the difference between business and human rights. Jot down the answers/opinions on the board or flipchart.
- Once the participants have stopped giving answers, read the responses aloud. Ask participants if everything has been covered. Then present the slides you have already prepared on Business and Human Rights.
- After the presentation, ask the participants whether the answers they provided tally with the slides you presented. Read the answers the participants gave and your slides aloud and clarify.
- Ask them whether they are clear on the concept of Business and Human Rights.

Activity 2: Understanding the inter-relationship between business and human rights - 35 min

- Ask the participants about ILO C169 and UNDRIP, whether they have any idea about their provisions or not.
- Jot down the participants' answers and then read them out loud.
- Lead a discussion based on the existing provisions.
- At the end ask if there are any questions.

Activity 3: Summarize - 10 min

- Based on the participants' responses, the trainer should de-brief on the source of rights.
 - At the end, ask if there are any questions.
-

Business and Human Rights

Business is an activity that is intended for profit-making. According to *Nepali Brihat Sabdakosh* (a Nepali dictionary), business means “a trade-related activity intended for profit-making, purchasing of goods, producing of goods, selling of goods”.¹ Enterprises involved in such trading activities are known as business corporations. The Nepali dictionary further explains that “business corporations” means those “related to trade and business houses”.² Business entities primarily established for conducting business are known by different names such as business, company, corporation and so on. Such business enterprises come into existence following their legal registration, and are also known as legal persons. The most common form of business organization, and one which is registered by the State and given many legal rights as an entity separate from its owners is that characterized by the limited liability of its owners.³ The American Heritage Dictionary defines corporations as “a group of persons established by statutes. They have distinct rights and responsibilities. Corporations are different from the people involved in the corporations. Thus, corporations have a distinct existence”.⁴

When doing business, however, companies should not overlook their responsibility towards society because business ventures can have a direct or indirect impact on the environment and human health. Hydropower generation, for instance, may cause deforestation, displace Indigenous Peoples from areas they have been inhabiting for generations, and/or destroy their religious, cultural and holy/ritual places. Business corporations often appropriate the natural resources. Indigenous Peoples have a profound spiritual connection to nature and/or are dependent upon nature. Areas destined for hydropower generation are typically inhabited by Indigenous Peoples, who are often entirely dependent upon the river for their livelihood. Such projects have therefore often resulted in their displacement from their traditional land and territories and had a negative impact on their livelihoods as well as their cultural and religious sites.

ILO Convention No. 169 sets out the special rights of Indigenous Peoples to land, territories and natural resources. It is an international law concerning Indigenous Peoples. There are also numerous other international laws that guarantee Indigenous people special rights Indigenous Peoples to land and natural resources. Before using or appropriating the natural resources in Indigenous Peoples’ areas, the government and private companies or project holders should therefore first ask the Indigenous Peoples inhabiting those areas. When conducting a consultation, if Indigenous Peoples say “no” to the utilization of their land and natural resources, Indigenous Peoples they should not then be displaced forcefully. The private companies and project should comply with the Indigenous Peoples’ decision. If they fail to inform or consult them or to obtain their consent, and forcefully appropriate the land and natural resources anyway, this represents a human rights violation and a violation of international law.

1. Nepali Brihat Sabdakosh (2015) Nepal Academy, p. 1179
2. Ibid
3. Black’s Law Dictionary, Seventh Edition
4. Corporate Governance, p. 2

UN Guiding Principles on Business and Human Rights

Objectives of the session:

By the end of the session, participants will:

- understand and be able to teach others the concept and theory of Business and Human Rights.

Methodology: Lecture, Brainstorming, Questions and Answers, Examples, Experience Sharing.

Materials: Laptop, Multimedia, Slides (handouts), Meta cards, Flipchart, Markers, Materials on UN Guiding Principles on Business and Human Rights.

Teaching and learning process:

Activity 1: Learning about the UN Guiding Principles on Business and Human Rights - 20 min

- Ask the participants what they know about the UN Guiding Principles on Business and Human Rights.
- Present slides on the UN Guiding Principles on Business and Human Rights, including the following points:
- Historical background
- Importance and necessity
- Use
- Legal status/recognition

Activity 2: Summarize - 10 min

- Based on the participants' responses, the facilitator should de-brief on the inter-relationship between Business and Human Rights together with the UN Guiding Principles on Business and Human Rights.
- At the end, ask if the participants have any questions.

UN Guiding Principles on Business and Human Rights

- The UN Guiding Principles on Business and Human Rights form a normative international law unanimously endorsed by the Human Rights Council in 2011 to “protect, respect and remedy” human rights in business activity.⁵
- It is the first international framework for business enterprises to protect, respect, and provide remedy for adverse impacts caused by their activities.
- The principles include the State and private sector’s responsibility to respect human rights.
- These principles place a duty on the State to protect human rights and on the private sector to respect and remedy them.
- These principles are applicable to all states and business corporations.
- Businesses must compulsorily (not voluntarily) apply this standard in their activity.
- These principles were developed following long discussions among representatives from businesses, civil society and Indigenous Peoples.
- These principles do not limit or curtail the human rights responsibilities set out in national and international law but rather clarify them. These are not new responsibilities imposed on the bodies concerned but rather give definition to corporations’ existing responsibilities.
- The main objective of this framework is to ensure that businesses are human rights-friendly, accountable and sustainable and that the human rights of the community in question are respected.

The UK was the first state to develop a National Action Plan for UNGP implementation, on 4 September 2013, followed by the Netherlands and Denmark. Others EU states such as Spain, Finland, and Italy are in the process of preparing an NAP.

All principles included herein are important for Indigenous peoples, although the term “Indigenous peoples” is not actually included. Take Principle No. 12, for example, which has an obligation for the state and business sector to apply ILO Convention No. 169 and UNDRIP.

In the case LAHURNIP vs. the Nepalese government, the Supreme Court stated that ILO Convention No. 169 should be considered a part of international law. Judgment issued on 2009, Case No. 065-WO-0475, 21 April 2013

The UN Guiding Principles on Business and Human Rights consist of three pillars

Pillar No. 1: Protection

Pillar No. 1 stipulates that the State has a duty to protect its citizens from human rights abuses by business corporations.

Pillar No. 2: Respect

Pillar No. 2 states that, when doing business, business corporations have a responsibility to respect human rights.

Pillar No. 3: Remedy

In the course of project implementation, if a right is violated, victims must have access to effective remedy. According to this pillar, if a right is violated, the victim has the right to access judicial and non-judicial bodies for effective remedy. For example, the State has a duty to ensure that the human rights of Indigenous Peoples and local communities in the areas destined for hydropower generation are not violated. The energy developers have

5. IWGIA report 17, 2014, p.10

a duty to respect the rights of Indigenous Peoples and local communities. If those energy developers are found to be violating rights, or causing negative impacts, it is the State's duty to ensure access to effective remedy for those affected. The State's duty to provide access to effective remedy includes taking appropriate steps to ensure that domestic, State-based judicial and non-judicial mechanisms are able to effectively address business-related human rights abuses.

UN Guiding Principles on Business and Human Rights (Pillar No. 1)

Objectives of the session:

By the end of the session, participants will:

- understand and be able to teach others about Pillar No. 1 of the UN Guiding Principles on Business and Human Rights.

Methodology: Lecture, Brainstorming, Questions and Answers, Examples, Experience Sharing.

Materials: Laptop, Multimedia, Slides (handouts), Meta cards, Flipchart, Markers, Materials on the UN Guiding Principles on Business and Human Rights.

Teaching and learning process:

Activity 1: To learn about Pillar No. 1 of the UN Guiding Principles of Business and Human Rights - 20 min

- Ask the participants how business entities have ensured human rights and lead a discussion based on a sharing of experiences.
- The facilitator should then present the 10 principles being considered under Pillar No. 1 of the UN Guiding Principles on Business and Human Rights. A discussion should then take place around the questions raised by participants.

Activity 2: To inform participants about the implementation and non-implementation of rights - 30 min

- Form a group of seven members maximum, to include women, and then let the group discuss the implementation and non-implementation by businesses of the 10 principles included under Pillar No. 1 of the UN Guiding Principles of Business and Human Rights. Discuss point by point.
- Discuss the outcomes from each group in plenary so that everyone has a chance to give feedback. Lead a discussion on the issues raised and draw to a conclusion.

Activity 3: Summarize - 10 min

- Based on the participants' responses, the facilitator should de-brief on the concept of and inter-relationship between Business and Human Rights together with the UN Guiding Principles on Business and Human Rights and its Pillar No. 1.
-

Pillar No. 1:

According to Pillar No. 1, the State has a duty to protect its citizens from human rights abuses by business corporations. UN Guiding Principles on Business and Human Rights numbers 1 to 10 include the State's duty to protect against human rights abuses taking place in business operations.

Infringement

State's duty to protect against human rights abuses

a) Fundamental principles:

1. The State has a duty to protect against human rights abuses within its boundaries or jurisdiction committed by all sectors of society, including business enterprises. The State's duty includes preventing, investigating, punishing and providing redress for human rights abuses taking place in business operations, enacting effective laws, policies, regulations and judicial mechanisms.
2. The State has a duty to ensure that the business enterprises operating within its boundaries or jurisdiction respect human rights.

Under this principle, the State has a duty to provide appropriate mechanisms to protect against human rights abuses, enacting necessary laws, policies and regulations, creating a judicial mechanism and ensuring that business enterprises respect human rights within its boundaries or jurisdiction.

b) Procedural principles:

State's duty to regulate and make policy

3. In order to meet its duty to protect human rights:
 - The State should enact and enforce laws and require businesses to respect human rights; it should create a regulatory mechanism that facilitates businesses' respect for human rights, and provide guidance to business enterprises on their responsibility.
 - The State should also ensure that laws and policies, including company laws enacted to set up business enterprises, are harmonized in order to respect human rights.
 - The State has a duty to provide guidance to business enterprises on their responsibility.
 - The State should provide assistance and enforcement mechanisms where necessary to ensure that business enterprises are not involved in such abuses.

State-business network

4. The State has a duty of due diligence in identifying and addressing the human rights impacts of business enterprises' operations, particularly State-owned enterprises or those business corporations enjoying grants or privileges from the State.
5. The State has a duty to verify that the business enterprises have met their responsibility as set out in international human rights instruments. Also to constantly monitor and evaluate their business operations in terms of whether or not they have caused any human rights abuses or negative impact on their rights.
6. The State should encourage business enterprises to respect human rights.

7. There is likely to be a heightened risk of gross human rights abuses, including by businesses, in conflict-affected areas. The UN Guiding Principles therefore stipulate that states should provide guidance, assistance and enforcement mechanisms to ensure that business enterprises are not involved in such abuses in conflict-affected areas.

For this:

- The State should help companies understand the potential impacts, prevent and mitigate abuses and address the adverse impacts of work they are involved in.
- The State should provide guidance for business enterprises, giving special consideration to vulnerable groups such as women, and including Indigenous Peoples.
- The State should also deprive business enterprises of their privileges if they fail to, or are reluctant to, address human rights abuses.
- The State should ensure that existing laws, policies and regulations are effectively addressing the human rights abuses and potential impact of business enterprises.

Nepal has ratified ILO Convention No. 169 and, by publishing it in its Gazette, has endowed it with legal status. The State has also provided some small support to the National Foundation for the Development of Indigenous Nationalities (NFDIN) to raise awareness of ILO Convention No. 169.

Nepal needs to produce appropriate policies, action plan and mechanisms to implement ILO Convention No. 169 and UNDRIP properly.

Ensuring policy coherence

8. The State should provide assistance plus appropriate information and training to government departments, bodies and other State organs when conducting their everyday business so that they realize their responsibility to respect human rights.
9. The State should comply with business-related policies when reaching agreements or signing contracts with national or multinational corporations in order to meet their human rights responsibility.
10. When they are partners in multinational companies performing business operations, states should:
- Ensure that they respect and meet their human rights protection responsibilities and not hamper the realization of these rights.
 - Encourage those enterprises to meet their human rights protection responsibilities by providing technical assistance, capacity building and raising awareness in line with their work and their capacity to respect human rights.

Nepal needs to take necessary action to protect human rights by passing appropriate laws and policies. For example, to guarantee the rights of Indigenous peoples and local communities, the State should ensure their participation, and their right to free, prior and informed consent to resettlement, compensation, benefit sharing and so on.

Use this principle to increase common understanding of Business and Human Rights, manage the existing challenges in terms of abuses and build international cooperation to respect human rights.

Day two

Recap of previous day - 15 min

Objectives of the session:

By the end of the session, participants will be able to:

- recap the topic or issues dealt with on the previous day,
- give feedback on the weakness of the previous day's sessions, and
- build capacity to analyse the topic previously considered.

Methodology: Lecture, Questions and Answers, Group Work and Presentation

Materials: Laptop, Slides, Multimedia

Teaching and learning process:

Activity 1: Recap - 15 min

- Select one participant to report back on the previous day.
- The selected rapporteur will present the report by means of slides prepared from feedback collected from participants.
- Following the presentation, gather additional feedback from the participants.
- Finally, the facilitator should de-brief based on the report and feedback from participants.

The UN Guiding Principles on Business and Human Rights, Pillar No. 2

Objectives of the session:

By the end of the session, participants will be able to:

- Know about the UN Guiding Principles on Business and Human Rights and particularly Pillar No. 2, and be able to explain it to others.

Methodology: Lecture, Brainstorming, Question and Answers, Examples, Experience Sharing

Materials: Laptop, Slides, Multimedia, Meta cards, Flipchart, Markers, materials on Business and Human Rights

Teaching and learning process:

Activity 1: To provide information on the UN Guiding Principles on Business and Human Rights, Pillar No. 2 - 30 min

- Ask the participants whether business enterprises have given due consideration to human rights during their operations and let them share their experiences.
- The facilitator should then present the 15 principles discussed under Pillar No. 2 of the UN Guiding Principles on Business and Human Rights and lead a discussion based on the questions raised by participants.

Activity 2: To inform participants about implementation and non-implementation of human rights protection policy - 45 min

- Form groups of seven members max., each to include women, and then let the groups discuss businesses' implementation and non-implementation of the 15 principles included under Pillar No. 2 of the UN Guiding Principles of Business and Human Rights, and then discuss point by point.
- Ask each group to present their group work in plenary and ask other groups to give feedback. Lead a discussion on the issues raised during the discussion and reach a conclusion.

Activity 3: Summarize - 15 min

- Based on the responses from the participants, the facilitator should de-brief on the relationship between business and human rights together with the UN Guiding Principles on Business and Human Rights and its Pillar No. 2.
 - At the end, ask if the participants have any questions.
-

The UN Guiding Principles on Business and Human Rights, Pillar No. 2

Under this pillar, the Guiding Principles clarify that business enterprises should respect human rights. The pillar places responsibility on business corporations or enterprises to respect human rights in their operations. Principles 11 to 24 deal primarily with corporate responsibility for respecting human rights.

Corporate responsibility for respecting human rights

a) Fundamental principles

11. Corporate and business enterprises should respect human rights. It means business enterprises are expected to identify the negative human rights impacts of their operations and provide effective redress.
12. Corporate responsibility to respect human rights applies to all internationally recognized human rights set out in the International Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work.
13. In order to meet their responsibilities, corporate/business enterprises should:
 - prevent, mitigate and, where appropriate, identify the reasons for and contributing factors behind negative human rights impacts and remedy any human rights abuses.
 - seek to prevent or mitigate any adverse impacts caused by their operations, products or services, and provide remedy for human rights abuses caused by them or to which they have contributed.
14. Corporate and business enterprises, whatever their size and scale, wherever they operate, in whatever sector and whomever they are owned and operated by, have a responsibility to respect human rights. However, depending on the size and context of the business operations, the human rights impacts may be lesser or greater.

Kabeli-B hydropower project in Panthar and Taplejung districts has provided project information in Indigenous languages.

In 2011, a company known as Birat Poultry Farm opened up a poultry farm in Morang district, Sorabhaga VDC-9. They misled the communities by saying that they were going to produce paint. The company, which was producing 10,2648 eggs a day, then decided to expand the factory. Citing the displacement of locals from Sorabhaga, Sarbesaha, Baniya VDC and Rangeli municipality due to the farm, and the massive impact on the environment, such as increased flies, stench and so on, locals formed a committee to protest against the company. Finally, in 2017, the committee, the industrial division office, Morang, and representatives of the poultry farm reached an agreement to move the poultry farm elsewhere.

15. In order to meet their responsibilities to respect human rights, corporate and business enterprises should have the necessary policies and processes in place regardless of their size and status. In addition:
 - they should institutionalize a policy commitment to respecting human rights;
 - they should undertake ongoing human rights due diligence to identify, prevent, mitigate and account for their human rights impacts; and
 - they should have processes in place to provide remedy for any adverse human rights impacts they cause or contribute to.

Policy commitment

16. In order to meet their responsibility to respect human rights, corporate and business enterprises should have the necessary policies in place and undertake the following:
 - senior officials of the enterprise should endorse such policies;
 - the policies should be prepared by experts on the topic;
 - the enterprise should ensure that everyone involved in its business operations, products and services respects human rights;
 - the policies should be made public and adequate information should be provided on the policies to suppliers and business partners, including the public; and
 - the policies should be incorporated into all the enterprise's procedures.

Human rights due diligence

17. Business enterprises must address human rights impacts. Business enterprises should identify and address the human rights impacts of their operations. This includes assessing possible human rights violations or possible impacts on human rights and finding ways of addressing human rights abuses by engaging with those groups potentially affected by their operations. Due diligence includes:
 - giving due consideration to human rights in a company's business operations, products and services;
 - realizing that the size, scale, nature and context of business operations affects the size and scale of human rights abuses; and
 - conducting regular assessments as the human rights impact may change over time, or according to the situation of the business operation and service.
18. To assess the potential risk to human rights, business enterprises should identify the real and potential human rights impacts of their operations. They should therefore:
 - include independent human rights experts in the process; and
 - ensure the meaningful participation of victims and stakeholders, conducting consultations with them according to the business operations, nature and status of the business enterprise.
19. Business enterprises should incorporate the findings of their human rights due diligence processes into their internal systems and procedures to prevent and mitigate human rights impacts.
 - Effective coordination is necessary to:
 - i) take responsibility for addressing human rights abuses at an appropriate level of operation; and
 - ii) take necessary decisions, allocate budget and take appropriate measures to address human rights abuses effectively.
 - appropriate measures may differ, for example:
 - i) identifying whether the business operations, products and services have caused or contributed to human rights abuses; and
 - ii) different measures to address the adverse impacts.
20. Business enterprises should take effective measures to ascertain whether or not human rights abuses have been effectively addressed and put procedures in place to receive feedback. To measure this effectiveness, they should:
 - have appropriate analyses and data indicators; and
 - encourage feedback from both internal and external sources, including stakeholders.
21. Business enterprises should be ready to communicate with victims and stakeholders when asked how they have addressed human rights abuses. They should also produce a report on the potential impacts of their operations, products and services and take necessary and appropriate measures to address potential human rights abuses. These communications must at all costs:
 - be accessible to all stakeholders and the information should include potential human rights impacts that may be caused or contributed to by their business operations, products and services;

- provide adequate information for assessing human rights abuses and addressing them effectively; and
- ensure financial privacy: the information should not cause risk to the individuals and stakeholders concerned.

Remedial mechanism

22. When a business enterprise has caused or contributed to an abuse of rights, it should provide effective remedy for those affected.

The contextual concerns

23. No matter what the context, business enterprises still have a responsibility to:

- respect the human rights recognized in all international human rights laws and existing laws, wherever they are operating;
- respect human rights and take the necessary measures to address human rights abuses even at a time of conflict; and
- establish mechanisms to ensure that the business addresses the human rights abuses that it causes or to which it contributes.

24. Business enterprises should give priority to preventing and mitigating the real and potential impacts of human rights abuses. If business enterprises fail to do so, there will be difficulties in accessing remedy.

The UN Guiding Principles on Business and Human Rights, Pillar No. 3

Objectives of the session:

By the end of the session, participants will be able to:

- Know about the UN Guiding Principles on Business and Human Rights and particularly its Pillar No. 3 and be able to explain it to others.

Methodology: Lecture, Brainstorming, Question and Answers, Examples, Experience Sharing

Materials: Laptop, Slides, Multimedia, Meta cards, Flipchart, Markers, materials on Business and Human Rights

Teaching and learning process:

Activity 1: To provide information on the UN Guiding Principles on Business and Human Rights, Pillar No. 3 - 30 min

- Ask the participants whether they are aware of any human rights abuses from business operations and let them share their experiences. Ask whether the State or business enterprises/corporations have established any mechanisms to remedy human rights abuses and lead a discussion based on the participants' answers.
- The facilitator should then present six of the principles under Pillar No. 3 of the UN Guiding Principles on Business and Human Rights and lead a discussion based on the questions raised by participants.

Activity 2: To inform participants about implementation and non-implementation of human rights protection policy - 45 min

- Form groups of seven members max., each to include women, and then let the groups discuss the implementation/non-implementation by businesses of six principles included under Pillar No. 3 of the UN Guiding Principles of Business and Human Rights and then discuss point by point.
- Ask each group to present their work in plenary and ask other groups to give feedback. Lead a discussion on the issues raised during the discussion and reach a conclusion.

Activity 3: Summarize - 15 min

- Based on the responses from participants, the facilitator should de-brief on the relationship between business enterprises and human rights together with the UN Guiding Principles on Business and Human Rights and its Pillar No. 3.
 - At the end, ask if the participants have any questions.
-

The UN Guiding Principles on Business and Human Rights, Pillar No. 3

Under this pillar, the Guiding Principles set out mechanisms for accessing effective remedy for a failure to respect and protect human rights. These principles deal with different mechanisms by which victims can access effective remedy when a right is violated. There are seven (25 to 32) principles that place responsibility on both business corporations and the State in terms of their duty to protect rights and ensure access to effective remedy for those affected, and on corporations in terms of respecting human rights in their operations.

Access to remedy

a) Fundamental principles

25. The State has a duty to ensure protection against human rights abuses by business operations. The State has a duty to provide judicial, administrative, legal and other appropriate mechanisms for ensuring that victims have access to effective remedy when rights are violated by companies. Within its territory and/or its jurisdiction, the State must ensure easy access to remedy for human rights violations caused by business enterprises.

b) Procedural principles

State-based judicial remedial mechanisms

26. The State has a duty to take appropriate steps to ensure that State-based domestic judicial mechanisms are available to address business-related human rights violations. The State also has a duty to take appropriate steps to minimize legal and other practical barriers that prevent victims from accessing remedy. This is because such barriers could prevent victims from filing cases and accessing remedy.

State-based non-judicial remedial mechanisms

27. The State has a duty to take appropriate steps to ensure the availability of non-judicial mechanisms with which to effectively address business-related human rights abuses.

Non-state-based remedial mechanisms

28. The State has a duty to give due consideration to the necessary steps for ensuring that victims have access to non-state-based remedial mechanisms in order to address business-related human rights violations.

29. In order to address complaints in a timely and direct manner, the State should require business enterprises to make effective company-based grievance mechanisms available.

30. Industries, corporate and business enterprises also have a duty to ensure effective grievance mechanisms are in place.

Khimti-Dhalkebar 220 KV Transmission line had negative effects on the locals of various VDCs and municipalities in five districts, namely Dolakha, Ramechhap, Sindhuli, Mahottari, and Dhanusa. The transmission line was run through human settlements without conducting consultation or providing proper information. Locals from Kamalamai municipality in Sindhuli had protested peacefully demanding the line be diverted but the project holders had forcefully continued their work. As a result, in December 2012, a writ petition was filed at the Supreme Court against the project and a complaint was submitted to the Inspection Panel of the World Bank, with a complaint registered with the National Human Rights Commission (NHRC). LAHURNIP was asked to facilitate the process. In 2016, the Inspection Panel made its report public, concluding that the project had not obtained free, prior and informed consent, and nor had it provided adequate information to the locals. In the end, compensation was paid at 100 percent of the prevailing rate to houses and land within a 15 m wide strip either side of the wires. In order to address the remaining concerns and mediate between the World Bank and the locals, a facilitator was designated in 2017.

Effective criteria for non-judicial grievance mechanisms

31. To ensure effective non-judicial grievance mechanisms, State and non-state actors should ensure they are:
 - Legitimate: the mechanism should be trustworthy and provide genuine and impartial remedy to the victims of human rights violations by business enterprises or companies.
 - Accessible: the grievance mechanisms should be accessible to all stakeholders they are intended to serve, and should provide adequate information and necessary assistance to those needing it.
 - Predictable: grievance mechanisms should provide the necessary steps with a clear and understandable timetable; the process, result and implementation of the grievance mechanisms must be clear and predictable.
 - Equitable: ensure victims easily have access to information sources, and respectfully participate in the grievance hearing with the involvement of experts.
 - Transparent: ensure that the parties concerned are properly informed about the grievance mechanism and its procedure; increase the effectiveness of the mechanisms and provide adequate information about the mechanism to the public.
 - Rights-compatible: the result and remedy should meet international human rights standards.
 - Regular learning sources: the mechanism should be able to set standards for improving mechanisms and potential grievances and preventing possible human rights violations.

Operational-level mechanisms should be:

- Engagement and dialogue-based: the mechanism should be based on engagement and dialogue with the stakeholder groups whose rights are being violated and who are seeking remedy.

Complaints mechanisms

Objectives of the session:

By the end of the session, participants will be able to:

- Know how to access remedy when rights are violated and be able to explain this to others,
- Know about national and international remedial mechanisms at the following levels, and the process of accessing remedy if rights have been violated, and be able to explain this to others:
 - Local bodies
 - National Human Rights Council
 - Court
 - Organization for Economic cooperation Development (OECD) national contact point
 - UN Global Compact
 - World Bank Inspection Panel and Compliance Advisor / Ombudsman (which deals with complaints against investors)
 - Charter-based and treaty-based mechanisms

Methodology: Lecture, Brainstorming, Question and Answers, Examples, Experience Sharing

Materials: Laptop, Slides, Multimedia, Meta cards, Flipchart, Markers, materials on Business and Human Rights

Teaching and learning process:

Activity 1: To provide information on gaining redress when rights have been violated - 25 min

- Ask the participants how to access remedy when a company, industry, corporation or business enterprise violates their rights and let them share their experiences. Lead a discussion based on the answers given by the participants.
- The facilitator should then present the materials prepared on accessing remedy when a right is violated, with examples.

Activity 2: To raise awareness of complaint mechanisms and processes - 50 min

- Form four groups, give participants two case studies and ask them to read them. (5 min)
- After reading the cases, divide the groups up and tell them to discuss the mechanisms for and process of redressing the cases of human rights violations. (20 min).
- Ask the participants to present their group's work in plenary (25 min) and also ask for comments, suggestions and feedback.
- Lead a discussion based on the points, comments and suggestions.

Activity 3: Summarize - 15 min

- At the end, ask if the participants have any questions and de-brief on the remedial mechanisms.
-

Complaints mechanisms

There are various complaints mechanisms for obtaining remedy against human rights abuses. These fall mainly into two camps:

1. National mechanisms
2. International mechanisms

1. National mechanisms

- Judicial mechanisms such as the District Court, High Court and Supreme Court, the judicial, mediation or reconciliation work of local bodies, etc.
- Non-judicial mechanisms such as the Land Reform Office, Land Revenue Office, Chief District Office, etc.
- There are also constitutional bodies such as the National Human Rights Commission, Commission for the Investigation of Abuse of Authority (CIAA), etc.

2. International mechanisms

- When a right is violated due to a failure to comply with the International Financial Corporation Standards or the provisions of international human rights laws, victims (either an individual or a community) can bring cases before the international grievance mechanisms for effective remedy. The international grievance mechanisms include treaty bodies under the UN or ILO and various other financial institutions.

Charter-based and treaty-based mechanisms

When a human right is violated, victims can access various mechanisms for effective remedy. Such UN mechanisms can be divided into two categories:

1. Charter-based mechanisms

Charter-based – Universal Periodic Review (UPR), Human Rights Council, Special Procedure (Thematic and Country-specific)

Special Rapporteur - Among various grievance mechanisms under the Office of the High Commissioner for Human Rights (OHCHR), victims can file complaints to a special rapporteur. There are 44 thematically mandated and 12 country-specific special rapporteurs. When the rights of an individual or community are violated by business operations, complaints can be submitted to the respective special rapporteur. The following special rapporteurs may be relevant to business-related human rights violations:

- Special Rapporteur on the Rights of Indigenous Peoples, Ms Victoria Laucia Tauli Corpuz
- Special Rapporteur in the field of Cultural Rights, Ms Karima Bennaoune
- Special Rapporteur on the Right to Development, Mr. Saad Alfarargi
- Special Rapporteur on the Right to Education, Ms Koumbou Boly Barry
- Special Rapporteur on the issue of Human Rights Obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Mr. John H. Knox
- Special Rapporteur on the Right to Food, Ms Hilal Elver
- Special Rapporteur on the situation of Human Rights Defenders, Mr. Michel Forst
- Special Rapporteur on the Human Rights of Internally displaced persons, Ms Cecilia Jimenez
- Special Rapporteur on the enjoyment of all human rights by older persons, Ms Rosa Korneeld Matte

Victims can easily submit their complaints to a special rapporteur, as they do not have to follow any specific procedure. The information should, however, be reliable.

2. Treaty-based mechanisms

There are various treaty bodies that monitor the implementation and non-implementation of international human rights laws, and these are also relevant for submitting complaints of human rights violations. Some of them are as follows:

- Committee on the Elimination of Racial Discrimination (CERD)
- Committee on Civil and Political Rights (CCPR)
- Committee on Economic, Social and Cultural Rights (CESCR)
- Committee on the Elimination of Discrimination Against Women (CEDAW)
- Committee Against Torture (CAT)
- Committee on the Rights of the Child (CRC)
- Committee on Migrant Workers (CMW)
- Committee on the Rights of Persons with Disabilities (CRPD)

Individual complaints

Before using the above complaints mechanisms, victims must first seek remedy through the national court and only when that is exhausted can these treaty bodies take up the cases as a last resort. There are also some exceptions. If the national court fails to dispense justice or delays in dispensing justice, victims can resort to these treaty bodies for remedy against the human rights abuses.

Shadow reports

The states parties to certain international conventions must submit reports to the relevant treaty body committees or to the Universal Periodic Review on their implementation of the provisions of an international treaty. In addition to government reports, various organizations, including non-governmental organizations, UN agencies and other inter-governmental organizations and academic institutions, including the press, can submit a shadow report, also known as a parallel or alternative report to the treaty body committees. In this shadow report, organizations can include business-related human rights violations.

Complaints mechanisms of financial institutions

- Organization for Economic Cooperation and Development. National contact point – OECD
- UN Global Compact
- Inspection Panel, Compliance Advisor/Ombudsman (CAO)

National complaints mechanisms

Non-judicial complaints mechanisms

i) National Human Rights Commission (NHRC)

The jurisdiction of the NHRC is as follows:

- To conduct investigations or inquiries upon receiving complaints of human rights violations.
- To recommend ways of fulfilling their responsibility to prevent human rights violations to the authority, individual or department in question.
- To make recommendations to the government.

- To publicize the names of officials, persons or bodies not following the recommendation of the NHRC.
- To issue orders for compensation of human rights abuses.
- To conduct investigations or inquiries into human rights abuses.
- To resolve cases except for adverse human rights violations (to be solved in criminal court).
- To issue orders and provide compensation.

ii. National Women's Commission (NWC)

The jurisdiction of the NWC is as follows:

- To formulate policies and programs for the welfare of women.
- To review existing laws and make recommendations to the government for laws and policies relating to women rights.
- To monitor, review and evaluate the existing policies and programs being implemented by government.
- To carry out research and studies into women's empowerment.
- To conduct public hearings on women's welfare.
- To forward recommendations to the relevant authorities in order to lodge a petition in court.
- To prevent potential human rights violations of women.

Semi-judicial mechanisms

Victims may also file complaints with the District Administrative Offices

Commission for the Investigation of Abuse of Authority (CIAA). This body:

- Conducts inquiries into any abuse of authority committed due to improper conduct.
- Conducts investigations into any person holding public office who has misused authority due to improper conduct.
- Takes action against a person for delegating any of their powers due to a misuse of their authority caused by improper conduct.

Local bodies

Complaints can be filed at the District Development Office or Village Development Council:

- Complaints can also be submitted to the District Development Office, Municipality and Village Development Committees, etc.

Judicial tribunals

Complaints of human rights abuses can also be filed with District Courts, the High Court and the Supreme Court.

A sample complaint letter for submission to the NHRC

A sample complaint letter for submission to the NHRC:

VICTIM'S DETAILS

Name:

Father's Name:

Mother's Name:

Address:

Permanent Address:

Metropolitan City / Sub Metropolitan / Municipality / VDC, Ward No.:

Mobile Phone No.:

Current Address:

Male: Female: Other (please state):

Single: Married: Unmarried:

Nationality:

Age:

Disability: No: Yes (please state):

Complainant is / is not the victim: Yes: No:

Complainant details (if complainant is not the victim):

Name and Institution:

Full address:

Email:

Phone / Mobile:

Relation to victim:

Accused perpetrators' details (If known):

Name of accused perpetrators:

Office/Organization:

Position / status:

Contact Address:

Contact No:

The subject of human rights violations:

Detailed information about the complaint:

Time:

Date of event:

Incident location:

How did the incident happen and how has it affected you:

Have you been displaced by the incident: Yes: No:

In relation to the incident, have you complained to any body/organization such as: Court, Police, Armed Police Force, Government of Nepal Red Cross, NGO etc? Yes: No:

If yes, where have you complained and explain what is happening regarding the complainant?

What kind of remedy do you expect from the Commission?

Complainant's signature

(To the best of my belief, everything here written is correct and true.)

Name

Date

Case documentation

Learning objectives of the session:

By the end of the session, participants will be able to:

- Understand more about human rights violations, and
- Be able to document cases of human rights violations.

Methodology: Group work, Case studies, Presentation, Questions and Answers, and Screening of documentary.

Materials: Case studies, Slides, Multimedia, Documentary, Newsprints, Markers and so on.

Teaching and learning process:

Activity 1: To help them understand methods of documenting cases of human rights violations - 30 min

- Ask the participants what they understand about documenting human rights violations. Write down the answers and read them aloud.
- Lead a discussion based on the answers given by the participants and de-brief on methods of documenting cases.

Activity 2: To engage participants in documenting human rights violations - 45 min

- Divide into four groups, provide them with pre-prepared cases and ask the participants to discuss in their group.
- Ask each group to engage in the group work by reading the given case and documenting the human rights violations based on that case.
- Ask the group to present their work to the plenary (20 minutes) and lead a discussion on the group's documentation of the cases.
- After the discussion, present the outline on case documentation and discuss whether or not the group followed the framework.

Activity 3: Summarize - 15 min

- The facilitator should de-brief on the methods and processes of documenting human rights cases based on the participants' discussions.
 - At the end, ask if the participants have any questions.
-

Case documentation

When claiming remedy against human rights abuses, case documentation in written form is very important. The case documentation should be based on facts and be reliable. The person involved in this documentation should therefore be smart and responsive. When documenting a case, the person should remain impartial. Preparation is most important in case documentation.

Prior to documenting the case, the person in question should ensure the following:

Facts relating to the case have been collected

- location, date and time of the incident;
- details of victims, population, socio-economic status; and
- details of offenders, designation, involvement of offender in the human rights abuses, etc.

Papers and documents relating to the case have been studied

- laws, policies, contracts, agreements concerning the case; and
- hospital reports, Environmental Impact Assessment Reports, etc.

Data is collected and analysed

- data on the exports and imports of the business operation or concerned business enterprises, project-related data and relevant statistics; and
- information, data produced from various reports, newspapers, websites etc.

The location has been observed

- collect audio-visual materials related to the case;
- collect statements from eyewitnesses or those involved in the case; and
- collect information from local civil society, Indigenous Peoples' organizations and other organizations relating to the case.

Cross-check from another source in order to verify information received from any source.

After collecting this data and information, you can fill in the form (See Case Details Collection Form).

N.B.: *it is important to understand that, when documenting any information or data, the victim could suffer further victimization, or there may be difficulties or a risk of attack. In such a situation, data and information of this kind should be treated as "confidential". You must obtain the person or community's consent to publicize data or information prior to collecting it.*

Case details collection form

1. Case details

A. Type of rights violation:

B. Date of incident:

Time of incident:

C. Location of incident: District:

VDC:

Permanent Address:

2. Description of the affected community:

A. Profile of the victim/s:

Indigenous Peoples:

Organizational Affiliation:

B. Details of the affected community:

Specific location of the community:

Total number of affected people in the community:

Number of affected men:

Number of affected women:

Number of affected children:

Indigenous composition of Indigenous Peoples to which the community members belong:

C. Details of the affected community:

Name:

D. Occupation of the community members:

3. Profile of the perpetrators:

4. Account of the incident:

5. What information is there on the incident?

6. What are the possible reasons for the human rights abuse?

7. What laws and policies are contributing to the human rights abuse?

8. Economic, social and cultural impacts:

9. Actions taken by the victim(s):

10. Actions taken by the civil society organizations:

11. The State's response:

12. Responses to the issue:

13. Recommendations:

14. Individual(s) and organization(s) involved in the documentation:

Name:

Organisation:

Position:

Date:

District:

Day three

Recap of previous day - 15 min

Objectives of the session:

By the end of the session, participants will be able to:

- Recap the topic or issues dealt with in previous days,
- Give feedback on the weakness of the previous day's sessions, and
- Build capacity to analyse the topic considered previously.

Methodology: Lecture, Questions and Answers, Group Work and Presentation

Materials: Laptop, Slides (hands outs), Multimedia

Teaching and learning process:

Activity 1: Recap - 15 min

- Select one participant to report back on the previous day.
- The selected rapporteur will present the report by means of slides prepared from feedback collected from participants.
- Following the presentation, gather additional feedback from the participants.
- Finally, the facilitator should de-brief based on the report and feedback from participants.

Role of media and media-friendly material production

Objectives of the session:

By the end of the session, participants will be able to:

- Understand the role of media.
- Be able to produce media-friendly materials.

Methodology: Lecture, Brainstorming, Questions and Answers, Examples, Group work and Experience sharing.

Materials: Laptop, Slides (hands outs), Multimedia, Meta cards, Flipchart, Markers, Materials on work plan and strategy.

Teaching and learning process:

Activity 1: To provide information on the role of media in defending human rights - 20 min

- Ask about the role of the media. Write the answers on the board and discuss.
- Present the prepared materials on the role of the media.
- Answer any questions the participants may have.

Activity 2: To share experiences of working with the media y - 20 imn

- Ask the participants to recount their experiences of working with the media, followed by facilitation from the facilitator.
- Provide any additional information on the role of the media.

Activity 3: To impart skills on producing media-friendly materials - 35 min

- Divide the participants into two groups and ask one group to write a press release and the other write a news article.
- Ask each group to present their work in plenary.
- The facilitator should then clarify anything else regarding the role of the media.

Activity 4: Question, answer and summarize - 15 min

- The facilitator should de-brief on the role of the media and answer any questions the participants may have.
-

Role of media and media-friendly material production

The role of the media is important in dispensing remedy to victims of human rights abuses. The media can also support the mitigation of human rights abuses and help victims' access remedy. Media coverage can be used as evidence during the remedial process. The media also play an immense role in informing and raising awareness among policy and law makers, including advocates and the public. It is therefore important that the media give enough coverage to human rights abuses. Human rights defenders should thus cooperate with the media and produce media-friendly materials.

How to write media-friendly materials

- Give the most important information in the first paragraph, so that everybody will understand the incident if that is all they read. The media call this first paragraph the "lead".
- Include additional information or data in subsequent paragraphs.
- Write in simple language that everyone can understand.
- Be as concise as possible.
- Include informative facts and data.
- Do not use technical or legal jargon.
- All the paragraphs should consistently lead on from each other. The second paragraph should support the information in the first one.
- Ensure that words or sentences are clear with no room for misunderstanding.
- Attach audio/visuals, pictures for the media.
- Avoid repetition.
- Use reliable data and, before sending to the media, cross-check the facts and information with a second source.

Every media channel has its own priorities. You therefore need to understand the priority of that particular media source before producing materials for it. The media are always looking for interesting facts. When producing materials, the interests and concerns of the media should therefore be given due consideration.

Materials can be provided to the following media:

- Newspapers
- Radio
- Television
- Online media
- Social media

Note: *pseudonyms should be used for the victim(s) and their location to protect their privacy and security. Do not publish any information that might cause risk to or give more pain to the victims. Before making such information public, you must first, at all costs, obtain the consent of the people involved.*

Press Release:

FOR IMMEDIATE RELEASE

Nepali Communities Seek Justice for Violations in World Bank Project

Kathmandu, Nepal, July 14, 2015 – Last week an independent investigation revealed serious abuses in a World Bank-funded transmission line project in central Nepal. The Khimti-Dhalkebar transmission line runs through Indigenous and rural communities, who have been raising concerns about the project for over five years. Though the findings validate community concerns, the World Bank has not committed to correcting the damage caused by its failures in this project.

The World Bank's Inspection Panel, the grievance office meant to hold the Bank accountable to its own policies, conducted an investigation in response to a community complaint filed in July 2013.

The complaint outlined extensive harm to communities' land, health, and livelihoods, including violent repression of peaceful protesters by armed security forces.

After visiting affected communities, the Inspection Panel found that the Bank "did not ensure adequate, timely and meaningful consultations during project preparation and implementation." The Bank failed to assess alternative routes for the power line and whether the local agency implementing the project had capacity to do so. The Panel also found the Bank did not provide prompt and effective compensation to families forcibly displaced by the project, nor did it create a local and accessible way for people to register their complaints.

In response to the Panel's findings, the World Bank has a responsibility to create an action plan to bring the project into compliance with its policies. Yet the Bank's plan, released along with the Panel's findings, fails to address harm already caused and the faulty assumptions on which the project is based. It belatedly recommends dissemination of information to communities, though the project is nearly complete. The plan is silent on two of the communities' central concerns -- how to address the Bank's failure to consider less harmful alternatives to the power line's route, and how to ensure safety of community members and peaceful protesters from armed security forces.

"The action plan, prepared without consulting the affected communities, does not go far enough," said Shankar Limbu, Secretary of LAHURNIP, a Nepalese human rights organization supporting the communities. "The best solution would be to divert the line away from people's homes."

"The World Bank must continue engagement and supervision of this project to ensure its investments do not continue to cause harm, and that force is not used against communities at any stage of the project's implementation," said Komala Ramachandra, South Asia Director of Accountability Counsel, a non-profit legal organization that the communities engaged for support.

The Panel findings come after a string of recent reports documenting the Bank's role around the world in funding projects that violate human rights. "With efforts in Nepal focused on reconstruction after the earthquake, it is all the more crucial that the Bank take timely steps to remedy the harm it caused and ensure positive development outcomes on the ground," said Ramachandra.

Contact:

Advocate Shankar Limbu, Secretary, LAHURNIP,
shankar1database@gmail.com, www.lahurnip.org

Komala Ramachandra, South Asia Director, Accountability Counsel,
komala@accountabilitycounsel.org, www.accountabilitycounsel.org, @AccountCounsel

Additional information, documents, and multimedia is available here:

<http://www.accountabilitycounsel.org/communities/current-cases/high-voltage-power-line-nepal/>

Draft complaint for remedy

Objectives of the session:

By the end of the session, participants will be able to:

- Write a complaint letter for remedy.

Methodology: Lecture, Brainstorming, Questions and Answers, Examples, Group work and Experience sharing.

Materials: Laptop, slides (hands outs), Multimedia, Meta cards, Flipchart, Markers, Materials on work plan and strategy.

Teaching and learning process:

Activity 1: To give a theoretical idea of how to write a complaint letter for remedy - 20 min

- The facilitator should present prepared materials on drafting a complaint letter for remedy.
- Answer any questions the participants may have.

Activity 2: To impart skills on drafting a complaint letter for remedy - 55 min

- Divide the participants into four groups and tell them to draft a complaint letter.
- Ask groups 1 and 2 to draft a complaint letter to be submitted to the NHRC.
- Ask groups 3 and 4 to draft a complaint letter to be submitted to the CIAA.
- Ask each group to present their work in plenary.
- The facilitator should then answer any questions raised in plenary.

Activity 3: Question, answer and summarize - 15 min

- The facilitator should de-brief on the drafting of complaint letters for remedy and, at the end, answer any questions the participants may have.
-

A complaint letter for remedy

Things to consider before submitting complaints for remedy:

The complaint can be filed/submitted by the victim(s) or their relative(s) or organization(s) working on the case. When a right is violated, the victim can submit the complaint, but it would be more effective if an organization were to submit it on their behalf. The complaint can be submitted in writing or verbally as well.

The complaint submitted must be real, factual and verifiable. You should also submit evidence concerning the case when you submit the complaint letter. After submitting the complaint, you need to regularly follow up on its progress.

There is no charge to submit a complaint.

The complaint letter should follow a stipulated format. However, if you are able to provide the necessary details about the event or happening, you can circumvent this. You can also submit complaints by phone to the nearest NHRC office. Once the complaint has been submitted by phone, you should regularly follow up on its progress.

.....

Action plan and strategy

.....

Learning objectives of the session:

- By the end of the session, participants will be able to:
- Understand more about plans of action and strategies, and
 - be able to prepare their own individual plan of action.

Methodology: Lecture, Brainstorming, Question and Answer, Examples, Group work, Experience sharing.
Materials: Laptop, Slides (handouts), Multimedia, Meta cards, Flipchart, Markers, Prepared materials on action plan and strategy.

.....

Teaching and learning process:

- Activity 1: Explain action plans and strategies - 20 min**
- Ask about action plans and strategies. Write answers down on the board and discuss.
 - Present the prepared materials on action plans and strategies.
 - Answer any questions the participants may have.

- Activity 2: Prepare an individual district action plan - 55 min**
- Ask participants to work in groups by district. Facilitate the groups.
 - Present the group work in the plenary.
 - After the plenary discussion, finalize the action plans.

- Activity 3: Summarize - 15 min**
- At the end of the session, answer any questions the participants may have.
-

DAY THREE / THIRD SESSION / HANDOUT

Action plan

Name of the company working at the local level	Project	Project activities	Project impact on Indigenous and local communities	Indicators	Redress
Kabeli Hydropower Company Ltd.	Hydropower	Road	Land encroachment Forest destruction Environmental impact	Violation of right to land and natural resources	<ul style="list-style-type: none"> • give guidance. • unite and raise collective voice. • except for judicial and non-judicial bodies, conduct negotiation, mediation. • submit complaints to national and international human rights bodies. • submit complaints to grievance mechanism of corporations. • also submit complaints to UN treaty bodies. • file case with local courts and local bodies.
		Dam	Displacement Submersion of spiritual areas Submersion of forest		
		Channel	Water source dried out Landslides Houses cracked or destroyed.		

Evaluation, feedback and close

Objectives of the session:

By the end of the session, participants will be able to:

- Evaluate the three-day-long training on the basis of their observations
- Draw the three-day-long training to a conclusion

Methodology: Speech, questions and answers

Materials: Evaluation questionnaire, laptop, slides (handouts), multimedia, meta cards, flipchart, markers.

Teaching and learning process:

Activity 1: Evaluation of the training - 35 min

- Explain the prepared questionnaire on evaluating the training.
- Distribute the questionnaire and ask participants to fill it in.
- Collect the completed questionnaires and prepare a report.

Activity 2: Conclude the three-day-long training - 55 min

- To close the training, prepare a ceremony according to the culture and rituals of the Indigenous Peoples in the area and perform this at the training venue.
 - Ask one person to give a speech on behalf of the participants (give careful consideration to gender balance).
 - Have a guest give a speech at the closing ceremony.
 - Have the chief guest/guest/facilitator distribute the certificates in accordance with the IPs' usual method.
-

.....

Training Evaluation Questionnaire

.....

1. What were the three most important subject of this training? Why?

2. What was the training methodology like? How could it be improved?

3. What are your suggestions for ensuring better facilitation of the training?

4. In your opinion, who would be appropriate participants for this kind of training?

5. Was the time allocated for the training session appropriate?

6. If you have any further suggestions for making the training more effective, please list below.

SECTION FOUR



References

Garner, Bryan A. (2019) **Black's Law Dictionary**, 7th Edition, Thomson Reuters.

ILO (1989) **C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169)**. Geneva: International Labour Organization (ILO).
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169

IWGIA (2014) **Business and Human Rights: Interpreting the UN Guiding Principles for Indigenous Peoples**, Copenhagen: International Work Group for Indigenous Affairs (IWGIA).

The UN (2011) **Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect and Remedy" Framework**. New York & Geneva: United Nations. Human Rights. Office of the High Commissioner. https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

The UN (2008) **United Nations Declaration on the Rights of Indigenous Peoples. New York: the United Nations**.
https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

The UN (1992) **Convention on Biological Diversity**. The United Nations.
<https://www.cbd.int/doc/legal/cbd-en.pdf>

Ministry of Law and Justice (1963) **Muluki Ain ("The Civil Code")**. Kathmandu: The Ministry of Law and Justice.

Neal Law Commission (1997) Land Acquisition Act. Kathmandu : Neal Law Commission
<http://www.lawcommission.gov.np/en/archives/16301>

Neal Law Commission (1992) Electricity Act. Kathmandu: Neal Law Commission
<http://www.lawcommission.gov.np/en/archives/12917>

Neal Law Commission (2011) Mediation Act. Kathmandu: Neal Law Commission
<http://www.lawcommission.gov.np/en/archives/15399>

Neal Law Commission (2012) Melmilap Ain ("Reconciliation Act"). Kathmandu: Nepal law commission
<http://mofaga.gov.np/sites/default/files/2018-06/1.0%20Mediation%20Act-2068-.pdf>

Neal Law Commission (2000) Contract Act. Kathmandu: Nepal law commission
<http://www.lawcommission.gov.np/en/archives/category/documents/law-archives/statutes-acts-law-archives/contract-act-2056-2000>

Neal Law Commission (1992) The Foreign Investment and Technology Transfer Act. Kathmandu: Nepal law commission
<http://www.lawcommission.gov.np/en/archives/13955>

Neal Law Commission (1994) Privatization Act. Kathmandu: Nepal law commission
<http://www.lawcommission.gov.np/en/archives/17839>

Neal Law Commission (1992) Labour Act. Kathmandu: Nepal law commission
<http://www.lawcommission.gov.np/en/archives/16878>

Neal Law Commission (1992) Insurance Act. Kathmandu: Nepal law commission
<http://www.lawcommission.gov.np/en/archives/category/documents/prevailing-law/statutes-acts/insurance-act-2049-1992>

Neal Law Commission (2013) Development Board Act. Nepal law commission
<http://www.lawcommission.gov.np/en/archives/12365>

Neal Law Commission (2040) Nepal Petroleum Act. Kathmandu: Nepal Law Commission
<http://www.lawcommission.gov.np/en/archives/category/documents/prevailing-law/statutes-acts/nepal-petroleum-act-2040-1983>

Neal Law Commission (1998) Town Development Act. Nepal Law commission
<http://www.lawcommission.gov.np/en/archives/18384>
https://www.lahurnip.org/uploads/articles/10-8-18-%20EIB%20complaint_eng.pdf

Neal Law Commission (2012) National Human Rights Commission Act. Kathmandu: Neal Law Commission
<http://www.lawcommission.gov.np/en/archives/15286>

