

Land, Forest and Indigenous Peoples' Rights in Relation to Climate Change and REDD

(Policy and Program Analysis)

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NEPAL FEDERATION OF INDIGENOUS NATIONALITIES
GLOBAL CLIMATE CHANGE-REDD PARTNERSHIP PROGRAM

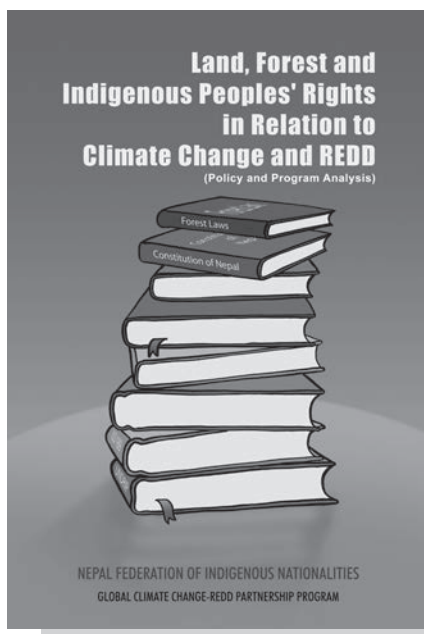
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NEPAL FEDERATION OF INDIGENOUS NATIONALITIES

GLOBAL CLIMATE CHANGE-REDD PARTNERSHIP PROGRAM

**LAND, FOREST AND INDIGENOUS PEOPLES' RIGHTS
IN RELATION TO CLIMATE CHANGE AND REDD
(POLICY AND PROGRAM ANALYSIS)**



NEFIN

**NEPAL FEDERATION OF INDIGENOUS NATIONALITIES
GLOBAL CLIMATE CHANGE-REDD PARTNERSHIP PROGRAM**

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Nepal Federation of Indigenous Nationalities (NEFIN), together with the IWGIA, AIPP, TEBTEBBA and FPP, has been conducting programs on Climate Change- REDD Partnership Program. As part of this program, a research study has already been carried out with detailed reviews and analysis of the government laws, policies, programs and indigenous peoples' rights on land and forest.

Following the research, the report which includes reviews and analysis of existing government policies and programs related to indigenous peoples and their rights on land and forests are set to be published in form of a book, which indeed is my great pleasure. The research has vividly analyzed and reviewed on how the indigenous peoples gradually lost their rights over their ancestral land and forest due to the discriminatory and impractical policies and programs introduced by the governments in the Nepal.

The Nepalese forest, remarkably thick in the past, is in process of rapid deforestation and forest degradation as the government policies gave no recognition to the customary laws, practices, traditional knowledge, skills and know-how of the indigenous peoples on sustainable land and forest management.

At a time when the country is working in direction to state restructuring and making of new constitution, I hope the publication of the report shall be highly contributory to establish the rights of indigenous peoples. I am also optimistic that the book shall be equally useful for the indigenous peoples and their leaders, right activists, intellectuals, civic society, international donor community and concerned institutions who have been working to mitigate the impacts of climate change and make the REDD effective in terms of the principle of social justice.

At this moment, I would like to express my special gratitude to TEBTEBBA foundation for its financial supports to conduct the research. I would also like to convey my gratefulness to the research team members– Pasang Dolma Sherpa, Pasang

Sherpa, Khim Ghale and Yogeshwar Rai for their diligent dedication to the research.

I am equally grateful to Purna Rawal for his special contribution in editing the language of research report; and the researchers of the TEBTEBBA Foundation for their constructive comments and suggestions while finalizing the reports.

We have been generously supported by the officials of the various government and non-government organizations, experts, right activists and politicians while collecting the information for the research. It is my pleasure that I express my thankfulness to these personalities as well.

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Raj Kumar Lekhi Tharu
Chairperson, NEFIN

EXECUTIVE SUMMARY

Nepal is a multi-lingual, multi-cultural, multi-religious, landlocked and federal democratic republic country. There are 59 groups of indigenous peoples and over 140 various language speaking indigenous groups. According to the census- 2001, the indigenous peoples cover 37.2 percent out of the 22.38 million total population of the country.

Indigenous peoples have been living across the country since ages. They had their own and independent states with their collective ownership over the land, water and forests until the territorial unification of Nepal by Prithvi Narayan Shah in the year in 1769. However, various acts and regulations related to land and forest introduced in various times by the Gorkhali, Rana and one-party Panchayet rulers deprived indigenous peoples from their rights to use their land and forests.

This study has been carried out with a general objective to analyze the government's existing laws, policies and program related to the rights of indigenous peoples on land and forests in Nepal. In addition, the study has also reviewed the human rights of indigenous peoples, climate change and the efforts being carried out by the government and concerned agencies regarding the climate change and REDD. The study is mainly based on the secondary data with support of the primary data collected in order to verify the prior.

Various data show that the Nepalese forests have been facing high rate of deforestation and forest degradation. According to the first land mapping survey 1978/79, a total of 42.8 percent, out of the 14.7 million hectares land, had been occupied by the forest. However, Nepalese land became home merely to 29 percent forests by 2001.

Experts point out the infra-structure and agricultural development, increasing populations, firewood collections, resettlements, pastureland expansion and jungle fire as main factors to deforestation and forest degradation. However, indigenous peoples underline government laws, policies and government institutions as major factors to deforestation and forest degradation. Data show, deforestation and forest degradation taking height following the introduction of

Private Forest Nationalization Act- 1957. Resettlement Company and Jhoda Act- 1971 further hit Nepalese forests. These acts, programs and policies, finally, forced the indigenous peoples to run off their ancestral lands and forests.

National Park and Wildlife Conservation Act- 1973, once again, alienated the indigenous peoples' livelihoods and forest-interdependency. Likewise, the second amendment of the Land Reforms Act- 1964 in the year 1968 abolished the kpat system forcing indigenous peoples to abscond their collective ownership on land. Nationalization of their pasturelands through the Nationalization of Pastureland Act- 1974 further deprived them from their ancestral livelihood and forest interdependency.

Despite these bruises, the Constitution of Nepal-1990, introduced after the restoration of democracy, recognized the indigenous peoples for the first time declaring Nepal a multi-ethnic, multi-lingual, multi-religious and multi-cultural democratic country. The Interim Constitution of Nepal- 2007, in addition, declared Nepal a secular and federal democratic state, thus recognizing more to the indigenous peoples.

Government of Nepal has ratified the Indigenous and Tribal Peoples Convention, 1989 of International Labour Organization (ILO-169) in 2007 and voted for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in the same year. Similarly, Nepal is signatory to the UN Framework Convention on Climate Change (UNFCCC) since 1992. After the approval of the submitted Readiness Plan Idea Note (RPIN) on REDD to the World Bank in 2008 by the Government of Nepal, the National REDD Forestry and Climate Change Cell under the Ministry of Forest and Soil Conservation has prepared Readiness Preparation Proposal (RPP) and submitted to the World Bank on 19th April 2010. Keeping in mind the efforts, indigenous peoples have shown their great concerns on ensuring the rights over the natural resources, customary practices, traditional knowledge and skills to be recognized and respected by the national REDD strategies in Nepal.

The indigenous peoples, therefore, underline to provide constitutional, legal and administrative guarantee of ownership and control over their water, land, forest and mineral resources as ensured by the ILO-169 and UNDRIP while formulating the policies, plans and programs related to climate change and REDD in Nepal.

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● ABBREVIATIONS

ACOFUN	Association of Collaborative Forest Users Nepal
BS	Bikram Sambat
CBS	Central Bureau of Statistics
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CF	Community Forest
CFUGs	Community Forest Users Groups
CMF	Collaborative Forest Management
COFSUN	Community Forestry Supporter's Networks, Nepal
COP	Conference of Parties
DFO/s	District Forest Office/s
DANAR	Dalit Alliance for Natural Resources
DNPWC	Department of National Parks and Wildlife Conservation
DoF	Department of Forests
FAO	Food Agricultural Organization
FECOFUN	Federation of Community Forestry Users' Nepal
Ha	Hectare
HMG/N	His Majesty's Government of Nepal
HIMAWANTI	Himalayan Grass Roots Women's Association for Natural Resource Management
ILO	International Labour Organization
IPs	Indigenous Peoples
INGOs	International Non Governmental Organizations
ICIMOD	International Center for Integrated Mountain Development
LFGUs	Leasehold Forest Users Groups
LRMP	Land Resource Mapping Project
MAP	Medicinal Aromatic Plants
MoFSC	Ministry of Forest and Soil Conservation
MOE	Ministry of Environment
MPFS	Master Plan for Forestry Sector
MWDR	Mid-Western Development Region
NAPA	National Adaptation Program of Action
NEFIN	Nepalese Federation of Indigenous Nationalities
NFA	Nepal Foresters Associations
NFDIN	National Foundation for the Development of Indigenous Nationalities

NFI	National Forest Inventory
NIWF	National Indigenous Women Federation-Nepal
NPC	National Planning Commission
NPWPA	National Parks and Wildlife Protection Act
NPWC	National Parks and Wildlife Conservation
NWC	National Women Commission
PA/s	Protected Area/s
REDD	Reducing Emissions from Deforestation and Forest Degradation
R-PIN	Readiness Plan Idea Note
RPP	Readiness Preparation Proposal
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFCCC	UN Framework Convention on Climate Change

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● CHAPTER I

INTRODUCTION
**TOPOGRAPHY AND INDIGENOUS
PEOPLES OF NEPAL**



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

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

National Foundation for the Development of Indigenous Nationalities (NFDIN) Act- 2002 has identified 59 indigenous nationalities (See, Annex I) in the country. NFDIN Act defines indigenous nationalities as 'communities who consider themselves as distinct groups and have their own mother tongues, religions, traditions, cultures, written or unwritten history, traditional homelands, geographical areas, and egalitarian social structure. Racially, Nepal is home to four racial groups— Mongoloid, Dravidian, Austroloid and Caucasoid. Among them, the Mongoloids are considered as indigenous peoples. (See *Ethnographic Map of Nepal*)

According to Census- 2001, the indigenous peoples cover 37.2 percent out of the 22.38 million total population of the country (See Annex II). The growth rate of the Nepalese population is 2.6 percent per annum. The female population constitutes 50.4 percent of the total population while the male population constitutes 49.96 percent.

Out of the 59 groups of indigenous peoples in the country, the census has identified 43 indigenous peoples¹ while the rest 16 are missing for several reasons- as the census has counted them together with other castes, involved them in 'others' category in lack of enumerators' knowledge on indigenous peoples and lack of awareness among the indigenous peoples in the remote areas.

Out of the 43² identified indigenous peoples, major 10 ethnic groups have over 100,000 populations while the other indigenous communities constitute less than 1 percent of the total population of the country. (See Annex III) Nepalese indigenous peoples are very diverse with different forms of settlements, ranging from nomadic or semi-nomadic to forest and city dwelling. (See Annex IV) Their literacy rate is 40 percent which is lower than the national literacy rate of 53.4 percent.

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

...

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

² Out of the 43 identified indigenous peoples, 5 are from the Mountain region, 20 from the Hills, 7 from the inner Terai and 11 from the Terai region. Among them, 4 have populations of 1 to 3.6 million, 5 have 0.1 million to 1.0 million, 6 have 50,000 to 100,000, 11 have 10,000 to 50,000, 13 have 1,000 to 10,000 and 4 have 164 to 660 populations.

● CHAPTER II

**LAND USE, FOREST SITUATION,
DRIVERS OF DEFORESTATION
AND FOREST DEGRADATION**



LAND USE AND FOREST SITUATION

The Land Resource Mapping Project (LRMP) prepared the ever first country-wide land use estimation based on the aerial photography in 1978/79. According to the survey, there was 42.8 percent forest land in the country. Accordingly, there was 26.8 percent agricultural land, 11.9 percent grazing land and 18.5 percent other land. (Jha, PK et al, 2000) Since then, the forest land has been significantly decreased to 29 percent (4.2 million ha.) as estimated by the Central Bureau of Statistics (CBS, 2001).

Following the malaria eradication in 1950, the forest in Tarai has been depleted to make room for the increasing populations, farming, and infrastructural development. The recurring fire, grazing, legal and illegal wood harvesting have added woes to the degradation of the available forest over the time.

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

Though the high mountain areas in the country are scarcely populated, the data show that there is an extensive use of forests. Most parts of the mountain region are covered with snow. As a result, it has been the centre of global attention due to the global warming in the current years. The southern part of the Himalayan region has extensive alpine meadows used for grazing and collection of medicinal aromatic plants. The land use pattern and forest land in the country between 1991 and 2001 is presented in table 1.

Table 1: Land Use and Change in Forest Land Over the Period of Time in Nepal (in hectares)

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

Source: CBS, 2008, Environment Statistics of Nepal

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

Nepalese shrub lands, the degraded forests, are majorly located in the hilly areas and Terai. Shrub lands constitute about 10.6 percent of the total area. Jointly, they constitute 5.8 million

hectare land. These forests are located across the four geographical regions of the country. The middle mountains have about 48 percent of the total forest area and the Terai has about 9 percent of the total forest. Likewise, the Siwalik hill provides room to 16 percent of the forests while the rest chunk of the forest is located in the high hills.

Presently, some 15.2 percent of the total forest and shrub land is under the Protected Area System¹.

The national forests², under the Department of Forest (DoF), are categorised into five types on the basis of management rights assigned to different entities. Community Forest Users' Groups (CFUGs) manage about 21 percent of the total forest area while the leasehold groups manage about 0.46 percent. Likewise, about 0.2 percent forest is under the Collaborative Forest Management (CFM) regime while the 63 percent of the forest is under the residual forest and shrub land, legally owned by the government. The residual forest and government-owned forests, in reality, are open access resources in the country.

SITUATION OF DEFORESTATION AND FOREST DEGRADATION

Forest degradation is higher than the deforestation in Nepal. A comparative study of forested areas in between 1979 to 1994 shows that annual deforestation rate in the country is 1.6 percent whereas annual degradation rate is increased by 8 percent. (MoFSC, REDD Cell, 2009)

Ironically, the degradation of national forests is comparatively higher than the other forests management regimes. Evidences clearly prove that the deforestation and forest degradation is substantially reduced once the forest management is trans-

¹ "Protected Forest " means a National Forest declared by His Majesty's Government as a Protected Forest pursuant to this Act, considering it to be of special environmental, scientific or cultural importance.

² "National Forest" means all Forests excluding Private Forests within the Kingdom of Nepal ,whether marked or unmarked with Forest Boundary and the term shall also includes waste or uncultivated lands or unregistered lands surrounded by the Forest or situated near the adjoining Forest as well as paths, ponds, lakes, rivers or streams and riverine lands within the Forest.

ferred to the local communities. At the same time, it is also argued that the community forests³ have been improved only at the cost of adjacent national forests in several places. The studies in regard to the deforestation and forest degradation have been carried out by various organizations having knowledge and capacity on Nepalese forests. (Nepal's R-PIN, 2008)

The Nepalese forests are located in an estimated 5.8 million hectares of land which is 40 percent of the total area of the country. Out of the estimated area, a total of 4.2 million hectares- 29 percent is covered by the pure forest while 1.6 million hectares- 10.6 percent is shrub-land. (DFRS, 1999) Table 2 below displays the historical forest area of the country and deforestation rate in different years. Presently, the overall deforestation rate in the country is 1.7 percent, which is well above the Asian average of 1 percent and the global average of 1.3 percent. (MoFSC, 2008)

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

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

Source: MEST, 2001

³ "Community Forest" means a National Forest handed over to a users' group for its development, conservation and utilization for the collective interest.

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

Nepal, approximately, has 4,268 hectares of forest- 29 percent of the total land area and 1,562,000 hectares of shrub land- 10.6 percent of the total land area. The most recent statistics reveals that forest area has been decreased at an annual rate of 1.7 percent over a period of 15 years whereas forest and shrub together have decreased at an annual rate of 0.5 percent.

Decrease in forest is not usual in every physiographic zone. In Terai, forest area has decreased at an annual rate of 1.3 percent from 1978/79 to 1990/91, whereas the rate in the hilly area is 2.3 percent during the same period. According to DFRS, 1999, the forest and shrub together have decreased at an annual rate of 0.2 percent in the mountains. Table 3 below includes the empirical data about the change in forest and shrub land in Nepal between 1978/79 and 1990/91.

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

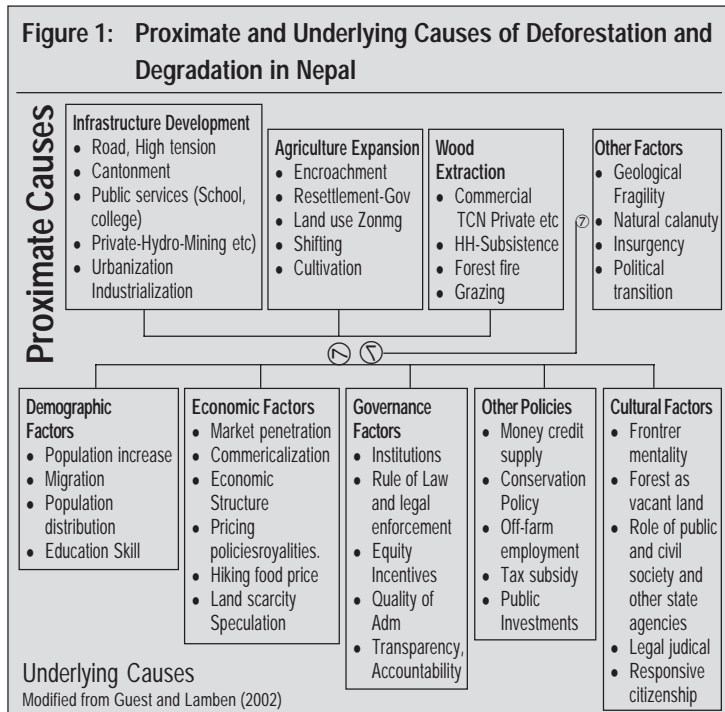
Year	Forest Land (in %)	Shrub Land (in %)	Total	Source
1978/79	38.0	4.70	42.7	LRMP
1990/91	29.0	10.6	39.6	NFI

Source: HMGN-DFRS, 1999.

DRIVERS OF DEFORESTATION AND FOREST DEGRADATION

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

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



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

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

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

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

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

Fuel wood is the dominant source of energy in small and traditional industries. The industrial sector consumes 1.5 percent of the total fuel wood consumption. A large number of me-

dium and large-scale industries in rural and urban areas of Nepal, such as baking, brewing, lime burning, brick making, cutlery industries, etc. also utilize fuel wood as a source of energy (Ghimire, 2003). Today, bio-fuels provide 87 percent of the energy consumed in Nepal. (HMG, NPC, 2003) About 30 percent of the energy requirements of the industrial sector are met by fuel wood.

Infrastructure development is a further major but often underestimated cause of deforestation and degradation. Lands for roads construction and dams settlements have been increased in the past which have significantly influenced the deforestation of forest in their surroundings. In between 1978 to 1991, about 99,000 ha of tropical Sal forest in the Terai was cleared with the average rate of deforestation of 1.3 percent per year. (HMGN-DFES, 1990) The area was also used for road construction, academic institution and for other development and construction works (HMGN-NPC, 1998).

Karki, 1991 mentions that 40 percent of forest fires were caused in middle hills by accident and 60 percent deliberately.⁴

There is no systematic and complete record of forest fire in Nepal. However, its impact on forest can not be ignored. The impact of forest fires tends to vary across the country. It is more frequently reported in the Siwalik Hills of Nepal. Unexpectedly, no forest fires are reported from dry forests, but more so from humid and – to a lesser degree – transitional forest zones in humid savannas areas (Geist and Lambin 2001).

Laban, 1979 analyzed the natural and human-influenced landslides and found that the natural landslides were considerably larger size in middle hills of Nepal. The hill roads and roadside vegetation are greatly affected by landslides and according to an estimate, about 400 to 700 cubic meters of landslides per

⁴ Accidental causes include carelessness in the use of cigarettes and matches, escape of fire from land being cleared for cultivation, smoldering charcoal left charcoal burners, as fire to smoke wild bees for honey collection, etc. Deliberately fire is introduced in forest to kill trees so that the dead wood could be used for fire wood, to induce new grass growth for cattle grazing, to clean forest for farming, to make firewood and fodder easier to collect and for hunting. Fire is also sometimes started maliciously by people with a grudge or complaint against the forest owner or manner.

sq km occur annually on the hill roads. Every year, 1 to 2mm of fertile topsoil gets lost from Nepal leading to desertification at low productivity (Jha, 1992).

INDIGENOUS PEOPLES' PERSPECTIVE ON DRIVERS OF DEFORESTATION AND FOREST DEGRADATION

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

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

Introducing the Private Forest Nationalization Act- 1957, the government nationalized the forests across the country. Nationalization of forests in 1957 and subsequent survey and registration of private land in 1960 provided further inducement to convert forests into agricultural land. Consequently, the forests in Nepal started to decrease and degrade in an alarming rate. Indigenous peoples' community forests were appropriated and their traditional rights on forests were taken away thus breaking down the traditionally existing indigenous stewardship and management system of forests. The Act offered no compensations to the soon-to-be deprived landowners. As a result, a number of communities purposely deforested their holdings to avoid nationalization (Khadka and Gurung, 1990).

Following the incident, communal responsibility of forest management disappeared and the forests in the country got converted into an open access areas as a common property resource, with the communities having no stake in forest protection.

Despite the positive intentions of nationalizing the forest, the Act largely attributed to massive deforestation inviting rapid rate of reduction. The formal nationalization of the forests, unfortunately, severed unforeseen ecological consequences. There were immediate incentives to clear the forest so that land could be claimed as the private property once it had been cultivated.

The subsequent survey and registration of private land in 1960 provided further inducement to convert forests into the agricultural land. It became a key factor to increase deforestation throughout the country. Despite having no records of land ownership, the villagers turned to cut down the trees as the land could be their private property once they cultivate the land (Bajracharya, 1993 and Wallace, 1997). As government's survey teams traversed the countryside with aim of mapping the boundaries of forest areas, villagers assembled to claim as much area as they wanted. This resulted in extensive deforestation and environmental degradation. The Land Survey and Measurement Act- 1963 continued to have an adverse impact on forests as it defined forest land as common property. Such a definition encouraged people to claim forest areas as their common lands that brought rampant exploitation of land further breaking down the indigenous community's management system of forest resources.

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

Likewise, the government's decisions to establish colonization settlements in the country and economic development policies also influenced the deforestation cases. In most of the cases, national policies drove most of the expansions of cropped land and pastureland together with the expansion of infrastructure, mostly through national development plans. The specific

growth-oriented agricultural and infrastructure policies also contributed in deforestation and degradation of forest. National development plans as well as international policies also brought impacts in this case. The international development aid, World Bank policies on cash crops, road construction and Structural Adjustment Programs focused at the local level also invited huge deforestation. At the same time, political instability in the last decade and lack of land use plans also contributed the deforestation and degradation of forests in Nepal.

In addition, government's informal policies have become the contributing factors to deforestation in the country. In specific cases, the forests of the Terai and Siwalik range are receding both in terms of area and quality. Public land, including forests, shrubs and rangeland are under the jurisdiction of the Department of Forest (DoF) and Department of National Parks and Wildlife Conservation (DNPWC). These parks and reserves in Terai and Siwalik range are under the supervision of active patrolling of Nepal Army with the restrictive forest management laws 1973 and regulations-1993.

These policies, as a whole, fostered the process of alienation of indigenous and local communities from their natural bases without addressing their social, cultural economic and gender problems. The policies have put their survival against the environmental sustainability. Feeling that the forests in their communities no longer belong to them, peoples left taking care over the illegal activities occurring inside the parks and reserves.

The lack of transparency and massive scale corruptions also contributed the deforestation and degradation of forests in country. The unsustainable timber logging and forest cut down because of the lawlessness made bureaucrats and government institutions unable to perform their supervisory duties leading to forest mismanagement (K.P.Acharya, Personal Communication, 19th March 2010).

Keeping in mind the experience of deforestation and degradation, it can be argued that the government's forest policies, which are still prevalent, undermined the indigenous forest

management system. Indigenous peoples consider the deforestation as a result of losing their community rights to own, use and control the forest in Nepal. The natural ecosystems—the air, waters, lands, plants and animals, rivers, wetlands and ponds constitute the totality of the natural environment and provide indigenous peoples the basis for their traditional subsistence economies such as farming, hunting, gathering, herding and fishing. They also fear that deforestation and degradation of forests in the country have risked their livelihood, economy and resource finally eroding their social life, traditional knowledge and cultures. (Focus Group Discussion, National REDD Strategic Workshop, 23-24th Feb. 2010)

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● CHAPTER III

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



INDIGENOUS PEOPLES' AND INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

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

INDIGENOUS PEOPLES' RIGHTS IN CONSTITUTION AND LEGAL PROVISIONS

Indigenous Peoples' values and identity are deeply rooted on the continued existence of culture, tradition and knowledge but the successive governments of Nepal after 1950s have been unable to address the issues of indigenous peoples. The democratic movement of 1990 brought the essence of multi-ethnic and multi-lingual nationalities to a wider recognition, both politically and constitutionally. The political change of 1990 only tried to adopt a cosmetic approach on the key issues, and the issues of indigenous peoples were left unaddressed. The interim constitution, 2007 also looks very promising to address the issues of indigenous peoples rights but however it will be true to words and presence in the new constitution of Nepal is yet unknown.

CONSTITUTION OF THE KINGDOM OF NEPAL- 1990

The Constitution of the Kingdom of Nepal- 1990 declared Nepal a multi-ethnic, multi-lingual and democratic country. The Constitution, for the first time, formally recognized the indigenous peoples in the country. Despite its recognition through Article 4, the Constitution could not address the issues and problems regarding the indigenous peoples' rights. Unfortunately, the Constitution, giving primacy to Hinduisms, put other religions in second-class status. As a result, the

indigenous peoples in Nepal were discriminated in the social, political and economic aspects.

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

INTERIM CONSTITUTION- 2007

Following the People's Movement II, Nepal, through the Constituent Assembly has been in attempt to introduce a new constitution. Currently, Nepal has an Interim Constitution promulgated in 2007 which was introduced on the basis of a political agreement by the Seven Party Alliance (SPA). The Constitution comparatively has enshrined positive provisions in part of the indigenous peoples' political, cultural, economical and social rights.

Article 3 of the Constitution recognizes Nepal as multi-ethnic, multi-lingual and multi-cultural country. The Constitution has also declared that Nepal would move a head as a federal democratic state. The Constitution has recognized Nepal as a secular state and all the languages as language of nation i.e. the language spoken in the particular state shall be the official language of the state.¹

¹ Some of the important articles in the Interim Constitution- 2007 are:

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

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

The Constitution, on part of the indigenous people likewise, mentions that the state shall ensure the participation of marginalized indigenous peoples in all tiers of the state as per the principle of social inclusion and proportional representation. Article- 63, similarly provisions 601-member Constituent Assembly through a mixed electoral system. As per the provision, a total of 240 members are chosen through 'first-past-the-post' elections system, 335 members are chosen through the proportional representation electoral system (groups to which the provision applies are: women, dalits, oppressed communities and indigenous peoples from backward regions, Madhesis and other groups as defined by the law), and 26 distinguished members from ethnic groups by the Ministry of Council.

NATIONAL FOUNDATION FOR DEVELOPMENT OF INDIGENOUS NATIONALITIES ACT- 2001

Nepal has formulated an act on National Foundation for Development of Indigenous Nationalities (NFDIN) for the social,

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

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

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

Article 21.1: Women, dalits, indigenous peoples, Madhesis community, oppressed groups, the poor peasants and labourers, who are economically, socially or educationally backward, shall have the right to participate in the state mechanism on the basis of proportional inclusive principles.

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

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

economic and cultural development of the indigenous peoples. The Act is equally aimed at the protection and promotion of language and culture of indigenous peoples. Furthermore, it also aims to uplift and make equal participation of the indigenous peoples in the mainstream development. Section 5 (3) of the Act, aims to conserve and promote the traditional skills, ideas and technology of indigenous peoples and help them bring into commercial use. Section 6 (a) of the Act has made provision to make the Foundation responsible to develop necessary programs on conservation and promotion of language, script, literature; history, art, culture, traditional skills and technology of the indigenous peoples.

The Foundation is an autonomous corporate body. The main objective of the Foundation is to support in the overall development of indigenous nationalities by formulating and implementing plans and programs related to their community, education, economy, culture and technology of traditional livelihoods.

However, the Act has no provisions on indigenous peoples' traditional knowledge in forest bio-diversity. It is merely limited to the non-forest biodiversity-based knowledge, skills and technology. Again, the Foundation does not extend to design and implement the program on human rights approach to development rather it is limited to promote the welfare approach to development.

Moreover, there are numbers of acts; regulations and ordinances concerning the issues of indigenous peoples' rights.²

² **Civil Service Bill- 2007**

The Civil Service Act was amended in 1993. Among others, it provides seat reservation to excluded people and backward regions, and trade union rights. The reservation/quotas in the civil service are as follows: women- 33 percent, Janajati- 27 percent, Madhesis 22 percent, Dalits- 9 percent, persons with disabilities- 5 percent, and backward regions 4 percent.

Nepal Police Regulations- 2007

Nepal Police Regulations, making historic amendment of its Regulations, provided 32 percent seats to indigenous nationalities, 28 percent to Madhesis, 15 percent to Dalits, 20 percent to women and 5 percent seats to the peoples from backward regions during its recruitment.

Social Inclusion Ordinance- 2009

The Ordinance, for the first time, made public service the inclusive. The proposed ordi-

LAND, FOREST AND RIGHTS POLICIES OF INDIGENOUS PEOPLES

LAND ACTS

During the territorial unification of Nepal in 1769, the Gorkhali rulers displaced indigenous peoples from their original homelands. Even after the completion of unification, they introduced discriminatory land laws, and ignored all the customary land-tenure systems and laws of indigenous peoples. In some cases, they provided *Kipat*³ lands to indigenous peoples legislating special laws like *lalmohar*, *sanad* and *sawal*. The Nepalese indigenous peoples further lost their lands even during the 103-year long Rana regime. The Ranas, by introducing the discriminatory laws, registered the lands of indigenous people in their own names.

In modern time, one-party Panchayat government introduced Land Reform Act in the year 1964. With its first amendment

nance reserves 45 percent of its total seats to women, Adibasi Janajati, Madhesi and Dalits, people with disabilities and residents of backward regions while filling the vacant posts through free competition.

Constituent Assembly Elections Act- 2007

According to Constituent Assembly Elections Act- 2007, all the contesting political parties must ensure representation of different groups in following proportion:

A total of 37.9 percent indigenous peoples, 31.2 percent Madhesi, 13 percent Dalits, four percent from backward regions and 30.2 percent Brahmins and Kshetris. The Act also provisions 50 percent women candidates from all groups.

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

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

³ Kipat is essentially a form of communal tenure, as only members of certain ethnic groups are permitted to own land. Under Kipat, land is held on a tribal, village, kindred or family basis, and individuals have definite rights in these lands by virtue of their membership in the relevant social unit (Regmi, 1997)

in the year 1968, the government abolished kipat land system of the indigenous peoples terming them a form of landlordship. Pasture Land Nationalization Act- 1975 added further woes in the indigenous people and their livelihoods by nationalizing and adding extra taxes in their pasture lands.

FOREST ACT- 1993 AND FOREST REGULATIONS- 1995

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

FOREST ACT, COMMUNITY FORESTS AND INDIGENOUS PEOPLES

The government of Nepal, in order to make the handover process easy, has given top priority to the community forests. The community forestry program in Nepal is being implemented for more than 15 years. Recent data indicate that over 14,500 community forest users' groups (CFUGs) have been formed so far. It means more than 1.24 million hectares of forest—nearly 25 percent of the total area of the country, has been managed by such groups. According to the (FCPF R-PIN 2008), over 950 Leasehold Forest Users' Groups (LFGUs) have been formed across the country which has been managing a total of 3,700 hectares of forest land.

Despite these facts and Community Forest Users' Group

(CFUGs) provision of participating local communities in the management and implementation of the forestry and leasehold forestry program, indigenous peoples and socially disadvantaged local communities have been excluded in the decision-making process and equitable benefit sharing of the forest and forest products. Ironically, the government, despite what mentioned in the Act, has taken no initiatives to promote the indigenous knowledge, skills and customary practices for the sustainable management of the community forests.

NATIONAL PARKS AND WILDLIFE CONSERVATION ACT-1973

The government introduced National Parks and Wildlife Conservation Act- 1973 (NPWC) with the objective of creating National Parks to conserve the wildlife and their habitats.

With the Act in practice, the responsibility of managing and protecting naturally significant areas has been on the hand of warden, not with the forest users' groups (Section, b, NPWC, 1973). With the implementation of Act, the government has heavily restricted the local inhabitants' movement into the parks and reserves thus breaching the provision of seeking local people and local leaders' feedbacks and suggestions before building the National Parks,

Reserves, or Protected Areas (Section 3 and 3af NPWC, 1973.)⁴, the government hardly seeks such feedbacks excluding the local community. Following the introduction of NPWC Act- 1973, forest-dwelling and local communities, including indigenous peoples, are excluded by National Park, Reserves and Protected Areas. Peoples excluded from their traditional territories and lands without any pre-information and consent while building parks, reserves and protected areas are unfortunately given no compensation. The locals and indigenous peoples' issues of concern such as land rights and restitution for losing their lands

⁴ Eight National Parks, four Wildlife Reserves, one Hunting Reserve, and three Conservation Areas (See annex 15, box, 8) including (seven buffer zones) have been established now in three ecological zones covering 27,874 km² or 18.33 percent of the country's total land area. They are governed by the National Park and Wildlife Conservation Act- 1973.

including physical, cultural and both the tangible and intangible sources have not yet been properly resolved.

NPWC ACT- 1973: GOVERNMENT FORESTS AND INDIGENOUS PEOPLES

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

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

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

NPWC ACT AND BUFFER ZONE

National Parks and Wildlife Conservation Act (NPWC) got its third amendment in the year 1992 to incorporate the concept of 'buffer zones' in the protected area. As a new policy initiative of the government, it began taking shape immediately after the amendment of the NPWC Act. Pursuant to this amend-

ment, an attempt was made to create a transition belt in the periphery of the protected areas to introduce a compatible land use pattern. This could create a protective layer and mitigate the pressure on the parks and improve the life of the people in the vicinity of the park through community development programs.

The Buffer Zone Management Regulation- 1996 strengthened the interrelationship between National Parks, Reserves and local community living around. It aimed to conserve and protect wildlife through peoples' participation by persuading local people about the direct benefits of the parks and reserves. The Buffer Zone Management Guideline- 1999 approved to put into effect with the aim to supply forest products and to conduct community development programs for the economic development of local people from the revenues collected by parks. In this regards, management and conservation activities have been carried out with the partnership and collaboration of various organizations in the buffer zones.

Moreover, another shortcoming of the NPWC Act is its lack of scope for community participation in conservation design and management of the parks and reserves. The Buffer Zones model found that it had a tremendous positive impact over the nearby indigenous communities, although the poorest among them were still not found to be benefitted. The buffer zone concept is good with lots of incomplete provisions.

So far, a total of over 1500 users' groups and 110 users committees have been formed with a population of 0.4 million (Oli, 2005) across the country. Despite these positive moves, there are few successful examples during the two decades of efforts towards involving indigenous and local community in management of parks, and reserves. Indigenous peoples' participation is woefully low in comparison with their greater dependence on park resources and their high population densities around parks and reserves.

POLICIES AND PROGRAMS

The indigenous peoples could not reap substantial benefits of the eighth plan and social welfare programs aimed at economi-

cally, educationally, socially backward communities. Taking note of the weakness and limitations of the previous programs, the Ninth Plan incorporated special policy and programs related to indigenous people and ethnic groups. The Tenth Plan separated chapters on indigenous peoples. Three Years Interim Plan comparatively adopted broader perspectives on aspect of indigenous peoples.

The programs included in the plan are launched with the objectives of eliminating existing social disparities and exclusion by improving their socio-economic condition, raising overall cultural status of the nation by undertaking research works on their cultural heritages and conserving them by enhancing social and economical empowerment. Lastly, the programs involve them in the nation building task by ensuring their access to resources through the promotion of knowledge and skill along with the modernization of their traditional occupations.

Despite these facts, indigenous peoples and ethnic groups as a whole, could not be benefited as envisaged from these programs. There are no committees of indigenous peoples and ethnic group at the local level; hence the targeted programs are directly implemented by the center, which has made difficult to run the programs smoothly. This happened due to lack of timely monitoring policy in respect of development of expertise in the indigenous peoples' communities.

NINTH PLAN-1997-2002 AND TENTH PLAN- 2002-2007

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

In part of indigenous peoples' issues, the program and activities have been implemented through NFDIN. The programs are limited to the continuation of the Ninth Five-Year Plan. Though the Tenth Plan mentions a broad range of policies and strategies to empower the indigenous peoples through positive actions and programs, it has not come into practice. These program components have not been assigned any quantitative targets. Indigenous peoples' issue has not yet become a priority for the government. A chunk of relatively small budget allocated to address the indigenous peoples' issues and absence of clear policy justifies this fact. The Tenth Plan does not specifically give emphasis on issues of rights of indigenous peoples to land, forest and traditional forest-related knowledge but it has a separate chapter on strategies and actions that give emphasis to protect, promote and utilize the rural traditional knowledge, skills and technology. Thus, there is no way to assess the implementation progress; and least of all, their impacts on upliftment of indigenous peoples. Some policies made for the disadvantaged groups are merely welfare-oriented as they do not address the structural problems.

INTERIM PLAN-2007-2010

Interim Plan- 2007-2010, comparatively, has adopted broader perspectives on aspect of indigenous peoples. Unlike others, it has identified the problems⁵, challenges,⁶ opportunities,⁷ strategies,⁸ and programs,⁹ for the development of indigenous peoples. Though the Plan does not specify the forestry sector policy for the indigenous peoples, it, however, commits to support poor indigenous peoples as many indigenous peoples, comparatively, have lower income rate. It consists of policy on forestry sector and has set the objective,¹⁰ strategies and policies related to poor,¹¹ and mentions about the opportunities.¹² Interim plan has also adopted conservation, promotion and

⁵ Problems: Lack of access to power and resources as the structure and management of the state is centralized. Lack of legislation in all sectors for positive discrimination and reservation, issues of indigenous peoples not prioritized due to conflict in the country. There was lack of data showing status and problems of indigenous peoples, inadequate budget and program for improvement in education and health, and conservation of language and culture. There was no policy clarity to identify traditional skill, technology, knowledge, language and capacities of indigenous peoples.

⁶ Challenges: Due to inadequate education, indigenous peoples are not in position to

sustainable use of biological resources. It has also provisioned about the preservation of culture, language, traditional knowledge, skills, and technology through research and institutional arrangements. Moreover, community and public ownership on biological resources has been considered to meet people's aspiration in forestry program particularly for poor and indigenous peoples. The Plan also aims to promote and utilize forest resources to enhance livelihood development opportunities and poverty reduction objective. Likewise, the plan has

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

- 7 Opportunities: In the Interim Constitution- 2007, Nepal is declared a secular, inclusive, republic, which has opened up additional chances for indigenous peoples. With end of armed conflict, there is favorable environment for the promotion of knowledge and skills and use of natural resources in the region occupied by indigenous peoples.
- 8 Strategies: Interim Plan has mentioned following strategies and policies relating to biodiversity conservation and indigenous peoples. Implementing special programs for threatened, highly marginalized and marginalized indigenous peoples. Language, religion and culture of indigenous peoples will be conserved and promoted through development of National Cultural Policy. Develop appropriate mechanism to increase access of indigenous peoples in water, land, forest and mines. For protection and promotion of language and culture of indigenous peoples, long-term master plan will be prepared and implemented.
- 9 Main Program: Interim Plan has mentioned following main programs based on the biological resource for the development of the indigenous peoples. Given priority to the indigenous people for the protection and management of natural resources. Develop policy for loan to support enterprises and skill of Indigenous Peoples. Arrange for seed money, training and technology for modernizing and professionalizing traditional skills and knowledge. Implement enterprise program for development of indigenous peoples. Implement necessary programs for promotion and production of non timber forest products and medicinal and aromatic plants to raise livelihood of indigenous peoples.
- 10 Objectives: Ensure rights and access of poor and unprivileged people in forestry program through social and economic empowerment. Support in equitable development for poverty reduction by increasing income of poor, dalits, indigenous peoples, ethnic communities etc.
- 11 Strategies and Policies Related to Poor: Spend fixed percent of revenue obtained from forests, wildlife and biodiversity conservation for the benefits of the poor which are as follows: Increase access and over all benefits for poor to use opportunities of international commitments. Formulate livelihood plan with participation of dalits, indigenous people and ethnic communities in all mode of forest management. Use income from buffer zone for the benefits of the poor including indigenous and ethnic communities. Provide fix percent of income from national forests for the development of poor.
- 12 Opportunities: Use resources from forests for the benefits of the poor. Emphasize participation and livelihood activities for poor in community forests, watershed management, conservation areas, leasehold forests and landscape program.

also recognized the full range forest and biodiversity in terms of environmental and economic aspects.

However, the plan does not touch the issues that could address social, cultural and spiritual aspects of the forests. The plan, similarly, does not recognize the rights of indigenous peoples over their lands and forests. In order to extend support for the promotion and protection of traditional knowledge and customary practices of indigenous peoples in the conservation and management and sustainable use of forest resources, the plan, avoiding holistic approach, deals only on sectoral approach.

NEPALESE INDIGENOUS WOMEN

Nepalese women's rights movement took a swing after the restoration of democracy in 1990. Constitution of Nepal- 1990 became further momentous to shape up the women's movement as it safeguarded and guaranteed their rights to freedom and equality. Consequently, the country could see various organizations advocating for the woman rights. Formation of Ministry for Women, Children and Social Welfare is a citable example in this regard. Formation of National Women Commission (NWC), likewise, is another example in connection to Nepalese women's rights. Adding bricks to the towering woman movement, the Constitutional Organ Determining Committee of the Constituent Assembly has recommended the NWC to recognize as a constitutional body through the up coming Constitution. Remarkably, NWC has got rights to run programs for women development including the rights to investigate and recommend action against woman violence.

In backdrop to these achievements, the government of Nepal has signed the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1997. Similarly, the government of Nepal has stood for the UN Security Council Resolution No. 1325 that ensures and promotes woman rights even during the period of conflicts.

The elections to Constituent Assembly also brought out some positive results in regard to the political participation of the

Nepalese woman. Thanks to the Act on Constituent Assembly Elections for it provisioned an obligatory 33 percent woman participation. As a result, there are 197 i.e. 32.8 percent woman members out of 601 Constituent Assembly members. Among these seats, there are 30 woman members elected through 'first-past-the-post' electoral system, 161 elected through the proportional representative system while the rest 26 are representing on the basis of nomination. This representation is remarkably larger than the woman presence in the previous parliaments. Amended Civil Servant Act- 2063 has specified 33 percent quota to the woman and Nepal Police and Armed Police Force-Nepal has also provisioned specific seats for the woman.

Despite these efforts, the discrimination against women is still prevalent in the county. Formally, they have yet an insignificant presence in the social, political, cultural and economic sectors of the country. Even the patriarchal familial system existing in the society has been one more cause of the discrimination against women. On the other hand, NWC has not been much effective in lack of the human and financial resources.

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

As indigenous woman, they have been facing problems due to some state-made policy and laws. A number of government policies have undermined the traditional knowledge, skill and inventions of indigenous women. Though the existing acts, laws and policies, have made some provisions to address the women problems, they have mentioned no provision on part of the indigenous women who traditionally have special significant identity in their community. Even the programs launched by the government have failed to bring together and mobilize the indigenous women let alone the special programs to promote and protect their indigenous skills, arts and knowledge (Unpublished report of High Level Task Force of Implementation of ILO-169 in Nepal, 2010).

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

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● CHAPTER IV

**ANALYSIS OF REDD PROCESS
AND MECHANISM**



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

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

PROGRAMS AND ACTIVITIES OF REDD CELL

REDD Forestry and Climate Change Cell, in coordination with the REDD Small Working Group, is working on the Readiness Preparation Proposal (RPP) under the mechanism of Forest Carbon Partnership Facility (FCPF) of the World Bank. One of the purposes of the Readiness Preparation Proposal is to assist the country to prepare itself for REDD. Although there

was no representation of the indigenous peoples during the preparation of R-PIN and the issues of indigenous peoples were negligible, representative from NEFIN was invited to be one of the members among seven of the REDD Working Groups at the operational level.

R-PIN AND INDIGENOUS PEOPLES

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

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

R-PIN has clearly recognized indigenous communities as forest dwellers further stating them one of the main stakeholders in the REDD process. It has also underlined on the need to conduct the program with the spirit of rights-based approach. However, R-PIN is fallen back in recognizing the rights of indigenous peoples over the resources secured by the international treaties and conventions like ILO-169 and UNDRIP. Likewise the R-PIN has not even addressed the full and effective participation including free and prior informed consent of indigenous peoples in the development and implementa-

tion of REDD process. There is no clear picture of women and children and their involvement in the National REDD process. It has emphasized on management of the forest by the local communities but ignored the customary practices of indigenous peoples and the role of women in the sustainable management of the forest. Thus the R-PIN is unable to give clear picture of the empowerment of the indigenous peoples and the benefit sharing process.

RPP AND INDIGENOUS PEOPLES

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

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

Among the six components, the first (1b) component-Stakeholders' Consultation and Preparation was carried out by consortium members of 7 organizations- Nepal Federation of Indigenous Nationalities (NEFIN), Federation of Community Forest Users' Nepal (FECOFUN), Himalayan Grass-Roots Women's Natural Resources Management Association (HIMAWANTI), Association of Collaborative Forest Users' Nepal (ACOFUN), Dalit Alliance for Natural Resources (DANAR), Nepal Foresters' Association (NFA) and

Forest Action.

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

Under the component of 1b, a total of 6 main activities were conducted— 16 Awareness and Consultation Workshops, 25 Expert Consultations, 2 Local and National Level Resource Center Assessments, 6 Validation Workshop including developing and piloting of outreach materials such as brochure, leaflets, poster, flip chart, radio programs, documentary and articles.

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

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

In most of the REDD stakeholders' meetings, conducted by the National REDD Cell in partnership with the civil society organizations, the indigenous peoples have got platform to raise their rights-related issues. NEFIN has been successful in inviting the government delegates to speak in favor of the indigenous peoples during the formation of REDD negotiation text in International Indigenous Peoples' Forum on Climate Change (IIPFCC) meeting CoP 15 in Copenhagen.

In addition, the NEFIN has already conducted two national level consultation programs in partnership with National REDD Cell.¹ The impact of conducting such program has brought the issues of indigenous peoples, particularly, their access to the forest and promotion of their traditional practices for the sustainable forest management among the government agencies. The rights of the indigenous peoples secured by the international treaties and conventions like UNDRIP and ILO-169 are important to be recognized and implemented by National REDD Strategies in Nepal.

Apart from the process of RPP other national REDD players like FECOFUN, ICIMOD and ANSAB have already implemented pilot project, "Design and Setting of a Governance and Payment System for Nepal's community Forest Management under REDD" in Charnawati watershed in Dolakha, Ludikhola watershed in Gorkha and Kayarkhola in Chiwan, covering 13,970 hectare (project brochure- <http://communityredd.net>).

INDIGENOUS PEOPLES AND REDD

The presence of indigenous peoples in the Community Forest Management Groups is very slim in the area where domination of non-indigenous peoples is high. Even in the Community Forest Users Groups of some of the districts like Bardiya, where more than 90 percent peoples are indigenous peoples. The representation of indigenous peoples is very nominal. It clearly shows the traditional forest management practices of indigenous peoples are highly affected by the community management policies and programs supported by the decision making bodies. One of the participants in our community level consultation meeting in Bardiya said, "We no longer allow to fish in the river and practice our traditional occupation of sieving cold flacks for our survival and we are found to seek for other labor job" (19th March, 2010). Yet the indigenous peoples, uninfluenced by the non-indigenous peoples, are still very close to the forest and have been managing the forest through their

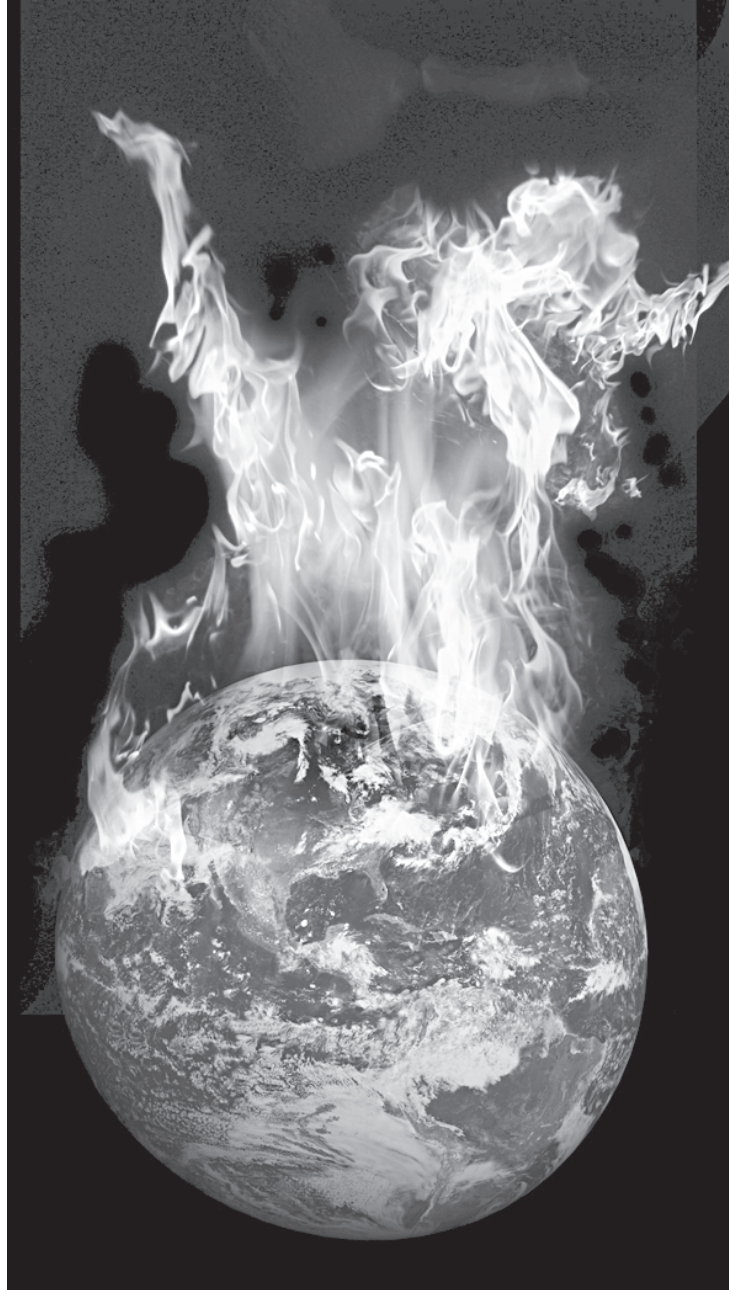
¹ Debriefing the CoP15 with the position of indigenous peoples and next one sharing the indigenous peoples' position paper on REDD developed by the indigenous leaders during the Indigenous Peoples' National REDD Strategic Workshop.

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

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● CHAPTER V

ISSUES AND CHALLENGES



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

With the introduction of Private Forest Nationalization Act-1957 and Pasture Land Nationalization Act- 1975, the indigenous peoples' customary laws and practices related to the forest are in greater risk of existence and legal recognition. In this context, the recognition of indigenous peoples' traditional practices and rights over the resources by ILO-169 and UNDRIP's contribution of forming National REDD strategies would be pivotal to continue the indigenous peoples traditional forest management system.

The reformation of policy and program of the land and forest management in Nepal is under the priority list of the indigenous peoples for developing indigenous peoples-friendly REDD strategies. At the same time, creating awareness among the indigenous peoples about the REDD and carrying it to the grassroots level to make their involvement in the decision making process is very challenging at the moment. The National REDD Forestry and Climate Change Cell outreach program under the component (1b) has proposed awareness programs on REDD through different activities. However, reaching to the indigenous communities is still questionable based on the prior experience of the national level outreach program done by National REDD Cell.

There is representation of indigenous peoples in the REDD Working Group and the REDD Forestry and Climate Change Cell under the MoFSC. Yet, it is feared that policies and programs shall be finalized in influence of the majority of non-indigenous people. At this juncture, it seems highly necessary that the indigenous peoples in country play very crucial role in pressurizing the Working Group, especially the REDD Forestry and Climate Change Cell to secure their rights over the

natural resources as ensured by ILO-169 and UNDRIP. The development of indigenous peoples' position paper on REDD and submission to the concerned government agencies and REDD stakeholders during the National REDD consultation meeting has been good initiation in this regard. Yet, it is premature to assume the indigenous peoples' position during the formation of National REDD strategies.

Since there is no women representation in the Working Group of REDD Forestry and Climate Change Cell, the possibility of addressing the women issues in the National REDD processes is slim. On top of that, issues of indigenous women to be ensured by the National strategies are further behind. The impact of climate change has been seen mostly on indigenous women, who are traditionally and culturally close to the nature particularly in part of the forest for their livelihoods. The participation and consultation of women in the national REDD process is a must.

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● CHAPTER VI

RECOMMENDATIONS



In order to overcome the problems and issues of indigenous peoples, it is a must to involve the indigenous peoples in the REDD making process so that they could play a crucial role to ensure the rights of indigenous peoples over the lands, forest, water, traditional knowledge and skills. For this, the regular follow-up of decision-making meetings of REDD Working Group is very essential. If it could be done so, the issues of indigenous peoples would be well mentioned in the different component reports of RPP that outline the National REDD strategies.

There are possible challenges of incorporating indigenous peoples within the category of local communities and under the shadow of severe impact on the indigenous peoples. Right from the beginning, it is important to separate indigenous peoples from local communities and secure their identities. Awareness among the grass roots level indigenous peoples, who are directly or indirectly associated to the management of the community forests is very necessary in this regard. Such an awareness on REDD is equally necessary for local and national level leaders to build further capacity for negotiation and advocacy. It is even important in perspectives of ILO-169 and UNDRIP to ensure the indigenous peoples' rights.

It is important to reform the policies of climate change, forestry and land according to the aspiration carried out by the ILO-169 and UNDRIP for the development of indigenous peoples friendly REDD strategies.

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

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

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

- National laws and policies on land, forest and natural resources need to be reviewed and amended with obligations under international law so as to take effective administrative and other measures for their implementation.
- There should be legal commitments from the government agencies in order to make full recognition and uphold the rights of indigenous peoples in national REDD strategies with consistent to applicable international standards like ILO C. 169 and UNDRIP.

The state should recognize and guarantee the indigenous peoples' rights to tenure, control, manage and rights to enjoy their traditional lands and territories, customary or community demarcated lands, territories and resources taking into account their historical relationships with their lands, territories and traditional cultural practices.

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● BIBLIOGRAPHY

Anaya, J. 2008. On the Situation of Indigenous Peoples in Nepal, Report by the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples

Adhiakari, J. 2008. Land Reform in Nepal, Problems and Prospects. Nepal Institute of Development Studies and Action aid Nepal

Adhikari, J. and Ghimire, S. 2002. "Park- People Relations" in (eds Adhikari, J. and Ghimire, S.) in A Bibliography on Environmental Justice in Nepal, Martin Chautari.

Baginski, O.S, Dev, O.P, Yadav, and N.P, Soussan, J. 2003. Community Forest Management in the Middle Hills of Nepal: The Changing Context, Forest and Livelihood: 3(1). Forest Action, Lalitpur, Nepal

Bajimaya, S.S. 2005. Participatory Conservation in Protected Areas of Nepal. In: (eds Sharma, U.R. and Yonzon, P.B.). People and Protected Areas in South Asia. IUCN, Resources Himalaya, Kathmandu, Nepal

Baral, B.2061. Yasto Hunuparchha Rajyako Samrachhana. Swyayatta Sasan Srokar Manch.

Belbase, N. 1999, "National Parks and Wildlife Conservation Act 1973". In (eds Belbase, N.): National Implementation of the Convention on Biological Diversity, Policy and Legislative Requirements. IUCN, Nepal.

Bhattachan, K.B. 2000. Dominant Groups Have Right to Live? Paper presented at a Working Session on "Sustainable Livelihood" in a South Asia Conference on Legacy of Mahbub Ul Haq-Human Development in May 19-23, 2000 organized by the Institute of Social Sciences in New Delhi, India.

Bhattachan, K.B.2001. Peace and Good Governance in Nepal: The Socio-cultural Context. In Quest for Peace. SAP-Nepal,

Kathmandu: South Asia Partnership-Nepal.

Bhattachan, K .B. Webster, Sarah. 2005. Indigenous Peoples, Poverty Reduction and Conflict in Nepal. International Labour Organization, Project to Promote the Rights of Indigenous and Tribal Peoples (PRO 169). ILO office in Nepal.

Bista Dor Bahadur. 1991. Fatalisam and Development, Nepal's Struggle for Modernization. Orient Longman.

Caplan, Lionel 2000, Land and Social Change in East Nepal, A Study of Hindu Tribal Relations, Himal Books, Patan Dhoka Lalitpur.

Central Bureau of Statistics, 2001. Population Monograph of Nepal, vol. I and II. Kathmandu, Nepal.

Central Bureau of Statistics, 2008. Environment Statistics of Nepal, Kathmandu Nepal.

Chowdhury, R.R. 2006. Driving Forces of Tropical Deforestation, the Role of Remote and Spatial Models, Singapore Journal of Tropical Geography.

Constitution of the Kingdom of Nepal, 1990. Kathamndu Nepal

CSRC (Community Self-Reliance Centre), July 2003. Land Rights in Nepal Present Reality and Strategies for Future. A Study Report.

----- . 2007a. Reflections. Land Rights Movement in Nepal.

----- . 2007b. Land First, Occasional Journal of Land Rights. Volume 6, September 2007.

----- . 2008. Land First. Occasional Journal of Land Rights. Volume 7, 2008.

DFID and The World Bank, January 2006. Unequal Citizens Gender, Caste and Ethnic Exclusion in Nepal. Summary.

DANIDA.2004. Best Practices for Including Indigenous Peoples in Sector Programme Support. Tool Kit. Royal Danish Ministry of Foreign Affairs.

Deuja, J., Basnet, J. 2004: Bhumi Aadhikar, Samajik Nyaya ra Garibi Nibaran in 'Nepalma Garibiko Bahas' edited by Bhaskar Gautam, Jagannath Adhikari, Purna Basnet, Martin Chautari, Thapathali, Kathmandu, Nepal.

Deacon, R.T. (1994): Deforestation and the Rule of Law in Cross-section of Countries. Land Economics.

DFRS, 1999. Forest Resources of Nepal (1987 – 1998). HMGN, Department of Forest Research and Survey, Ministry of Forests and Soil Conservation, HMGN, Kathmandu.

Dunning, J.B., Danielson, B.J., Pulliam, H.R., 1992. Ecological Processes that Affect Populations in Complex Landscapes.

FCPF, 2008. Readiness Plan Idea Note.(R-PIN) Template. Government of Nepal, Ministry of Forests and Soil Conservation, submission to the Carbon Partnership Facility Readiness program Idea Note for Reducing Emissions from Deforestation and Forest Degradation.

Fisher, R.J.1988."Local Organizations in Forest Management", in Seminal Series at Institute of Forestry Directions for Community of Forest Management in Nepal, Pokhara.

Fisher, R.J.1989. Indigenous System of Common Property forest Management in Nepal, Working paper No 18, Honolulu, Hawaii: Environment and Policy Institute, East-West Centre.

Foley, J.A., DeFries, R., Asner, 2005. Global Consequences of Land Use. Science, vol.309.

Gautam,V., Adhikari, J. ra Basnet, P .2061. Nepal ma Garibiko Bahas. Martin Chautari.

Geist, H.J., Lambin, E.F. 2002. Proximate Causes and Underlying Driving Forces of Tropical Deforestation.

Gurung, Harka, 2000. Land Use in Mountain Environment in Environment and Agriculture at the Crossroad of the New Millennium edited by Jha PK et al. Ecological Society Nepal.

Gurung, Harka, 2001. Nepal Social Demography and Expressions, New ERA, Kathmandu.

Gurung, H. 2005. Nepal Atlas and Statistics. Toni Hagen Foundation and Himal Books.

Gurung, H. 2007. From Exclusion to Inclusion, Socio-Political Agenda for Nepal. 2007. Social Inclusion Research Fund.

Gurung, H., Malla, K. Bhattachan, K .B, 2007. Janjati Bikash ko Jukti. Janjati Bikash Samawanya Kendra, Kathmandu.

Guha, R. and Gadgil, M.1995. Ecology and Equity: The Use and Abuse of Nature in Contemporary India. London. UNRISD, Penguin Books.

HMG/N. 1993. Forest Act. Kathmandu, Nepal.

HMG/N.1993.Nepal Environmental Policy and Action Plan. Kathmandu.

Interim Constitution of Nepal 2007, Kathamndu Nepal.

Hobley, M.;Campbell, J.Y.;Bhatia, A.1996. Community forestry in India and Nepal: Learning from Each Other. Discussion Paper Series No.MNR 96/3, Kathmandu: ICIMOD.

ILO Convention No 169/1989 Ko Nepalma Rastriya Karyanwayan Samabndi Karyayojana Nirmanma Bisesagya Toloiko Partibedan, 2076(unpublished).

IUCN, Resources Himalaya. 2005. People and Protected Areas in South East Asia. In: (eds Sharma, U.R. and Yonzon, P.B.). People and Protected Areas in South Asia. IUCN, Resources Himalaya, Kathmandu, Nepal

Khadka, S.S.; Gurung, S.K. 1990. Popular Management of Forest Resources in Selected Districts of Selected Zones: Review of Laws and Regulations on Forestry Users Groups. Kathmandu: CIDA

Kotru, R. 2009. Nepal's National REDD Framework: How to Start? Journal of Forest Livelihood Vol. 8(1).

Kanel, et al 2009. Policy Reform and Local Participation on Forestry: A Case Study from Nepal Available from <http://srdis.ciesin.columbia.edu.cases.nepal-008.html>

Kandel KR, et al 2009. Draft report on an Assessment of Land Use, Forest Policy and Governance, REDD-Cell, Ministry of Forest and Soil Conservation Kathmandu Nepal.

LAHURNIP, 2009. Exclusion of Indigenous Peoples' Representatives from the Making of Nepal's New Constitution: A Request for Consideration Under the United Nations Committee on the Elimination of Racial Discrimination's Urgent Action and Early Warning Procedures from http://www.forestpeoples.org.documents.asia_pacific.nepal_cerd_urgent_action_feb09_eng.pdf

Limbu. S., 2005. Summary of a Comparative Study of the Prevailing National Laws Concerning Indigenous Nationalities in Nepal and ILO Convention No.169 on Indigenous and Tribal Peoples. Advocate, LAHURNIP, Kathmandu, Nepal.

Liz, A. Wily with the Assistance of Chapagain, D. & Sharma, S. 2008: Land Reform in Nepal Where is it Coming From and Where is it Going? A report of a short scoping study for DFID Nepal.

LRMP, 1986. Land Utilisation Report. His Majesty's Government of Nepal, Survey Department/Land Resource Mapping Project, Kathmandu.

MPFS. 1988. Master Plan for Forestry Sector. Ministry of Forest and Soil Conservation, Kathmandu, Nepal.

MFSC. 2002. Nepal Biodiversity Strategy. Ministry of Forest and Soil Conservation, Kathmandu, Nepal.

MFSC. 2004. Non-Timber Forest Products Policy. Ministry of Forest and Soil Conservation, Kathmandu, Nepal,

MFSC. 2006. Nepal Biodiversity Strategy, Implementation Plan. Ministry of Forest and Soil Conservation, Kathmandu, Nepal.

MAC. 2007. Agriculture Perspective Plan Study Report, Volume 1: APP Implementation Status Report, Kathmandu. Ministry of Agriculture and Cooperatives.

Muller-Booker, U.1999. The Chitwan Tharus in Southern Nepal: An Ethno Ecological Approach. Franz Steiner Verlag

Wiesbaden GmbH, Sitz Stuttgart, Nepal Research Centre Publication, New Delhi.

NAP. 2002. National Action Plan on Land Degradation and Desertification. Kathmandu.

NPC. 1997. Ninth Five Year Plan. National Planning Commission, Kathmandu, Nepal.

NPC. 2002. Tenth Five Year Plan. National Planning Commission, Kathmandu, Nepal.

NPC. 2005. Nepal Millennium Development Goals Progress Report 2005. National Planning Commission, His Majesty's Government of Nepal, Kathmandu, Nepal.

NPC. 2007. Three Years Interim Plan. Kathmandu, Nepal.

NFA. 2006. Nepal Ban Prabidhik Sangh, Rastiya Jaibik Bibidhta Sambandhi Pratibedan, Nepal Sarkar Ban Tatha Vusamrakchhan Mantralaya, Batawaran Mahashkha, Singhdaurbar Kathmandu.

NAPA. 2008. National Adaptation Program of Action to Climate Change. Ministry of Science and Technology, and UNDP.

NFDIN. 2001. National Foundation for Development of Indigenous Nationalities Act.

National Land Rights Forum, 2008. Second National Conference Report, Ghorahi, Dang.

National Land Rights Forum, National Land Rights Concern Group, Community Self-Reliance Centre, 2006. Reflections. Land Rights Movement in Nepal.

Neupane, K. 2008. Dilemma of Land Reforms an Incursion to the Private Property Rights. Limited Government (Nepal)

Ojha. H.R.et.al. Making REDD Functional in Nepal: Action Points for Capitalising Opportunities and Addressing Challenges (Draft Discussion Paper). www.forestrynepal.org/publications/article.4043

Palit, S. 1996. Comparative Analysis of Policy and Institutional Dimensions of Community Forestry in India and Nepal. Discussion paper Series No. MHR 96/4. Kathmandu: ICIMOD.

Pokharel, Hem Sharma 2005, Perspective of HMGs of Nepal on Indigenous Nationalities in ILO Convention No. 169 and Peace Building in Nepal, NEFIN and ILO Nepal.

Pratibedan, 2051, Uchastariya Bhumisudhar(Badal) Aayog, P.B. Prakashan.

Rastriya Bhumi Aadhikar Muncha Nepal. 2063. Nepalma Naya Bhumi Byabastha Prastabit Khaka.

Regmi, M.C.1971. A study in Nepali Economic History. Manjushree Publishing House, New Delhi, India.

Regmi, M.C. 1999 A Study in Nepali Economic History, Adroit Publishers Yamuna Vihar, Delhi.

Regmi, M. C. 1977. Land Ownership in Nepal. Adroit Publishers, Delhi.

Regmi M.C. 2061, Recent Land Reform Programs in Nepal, Asian Survey, Vol.1, No 7.

Rai, Y.2008. Implementation of International Commitments on Traditional Forest Related Knowledge: Advancing Indigenous Peoples Rights from Indigenous Peoples Experiences in Nepal, Organized By: Research and Development Organization on 10 September 2008 at Hotel Summit, Lalitpur.

Sherchan, K.1999. Agro-biodiversity and Indigenous Peoples' Knowledge in Nepal. In (eds.Tamang, Bhattachan and Shrestha) in Proceeding of the Asian Regional Conference on Reasserting Indigenous Knowledge Systems held in Kathmandu, from 1-3 Nov, 1997.

Sharma Paudel, 2002. Integrating People and Nature: A Perspective for Environmental Conservation and Livelihoods in the Context of Nepal. Forest and Livelihoods Vol 2(1). Lalitpur: Forest Action.

Shrestha, C.B. Raji, M. Raji, M. 2004. Protecting what's Our:

Indigenous Peoples' Initiatives to Biodiversity Conservation in Nepal. A case study from Raji Communities from Surkhet districts of Midwest Nepal. A Research Report submitted to Nepal Federation of Indigenous Nationalities.

Shrestha, K. And Rai, Y. et al. 2008. Study of Sustainable Biodiversity Conservation: Knowledge of Indigenous Communities in Nepal. A Research Report Submitted to NFDIN. Research and Development Group Centre, Kathmandu, Nepal.

Shrestha, G. B. 2059. Ain Sangraha, Pairabi Prakasan Kathmandu, Nepal

Schaeffer R. et al. (2005): Underlying Causes of Deforestation. Science 307 (5712): 1046-1047.

Talbott, K.; Khadka, S. 1994. Handing it Over: An Analysis of the Legal and Policy Framework of Community Forestry in Nepal. Washington DC: World Resources Institute.

Thapa, K, Timshina, P, Dahal, M. 2054, Aadhunik Nepalko Aarthik Etahas, CNAS Kathmandu, Nepal.

UNDRIP. 2008. UN Declaration on the Rights of Indigenous Peoples, Office of the UN Human Rights Commission, Kathmandu, Nepal.

Wallace, Michael B. 1987. Community Forestry in Nepal: Too Little, Too Late? Research Report Series. HMG-USAID-GTZ-IDRC-FORD-Winrock Project. Kathmandu, Nepal.

Wanta, P., Yatru, K., ra Gautam, V. 2058. Chhpama Janjati. Martin Chautari.

Wen, T. (Beijing), Lau. K. (Hongkong). 2008. Land Reform and National Development in Nepal

Xanthaki, A. 2007, Indigenous Rights and United Nations Standards, Self-determination, Culture and Land, Cambridge University Press, UK.

Zaman, M.A. 1973. Evaluation of Land Reform in Nepal. Ministry of Land Reforms, HMG of Nepal.

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● ANNEXES

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

Source: NFDIN Act, 2002

Annex II: Population of Indigenous Nationalities in Nepal		
Indigenous Nationalities	2001	Percent
Nepal	22736934	
Magar	1622421	7.14
Tharu	1533879	6.75
Tamang	1282304	5.64
Newar	1245232	5.48
Rai	635151	2.79
Gurung	543571	2.39
Limbu	359379	1.58
Dhanuk	188150	0.83
Sherpa	154622	0.68
Gharti/Bhujel	117568	0.52
Kumal	99389	0.44
Rajbanshi/Koch	97241	0.43
Sunuwar	95254	0.42
Majhi	72614	0.32
Danuwar	53229	0.23
Chepang	52237	0.23
Santhal/Satar	42698	0.19
Ghangar/Jhangar	41764	0.18
Gangai	31318	0.14
Thami	22999	0.10
Dhimal	19537	0.09
Bhote	19261	0.08
Yakkha	17003	0.07
Darai	14859	0.07
Tajpuriya	13250	0.06
Thakali	12973	0.06
Pahari	11505	0.05
Chhantel	9814	0.04
Bote	7969	0.04
Baramu	7383	0.03
Jirel	5316	0.02
Dura	5169	0.02

Annex II: Population of Indigenous Nationalities in Nepal		
Indigenous Nationalities	2001	Percent
Meche	3763	0.02
Lepcha	3660	0.02
Kishan	2876	0.01
Raji	2399	0.01
Byashi Sauka	2103	0.01
Hyayu	1821	0.01
Walung	1148	0.01
Raute	658	0.00
Hyolmo	579	0.00
Kushbadiya	552	0.00
Kusunda	164	0.00
Total	8454782	37.19

Source: CBS 2001, Kathmandu

Annex III: Ten Major Groups by Number		
Ethnic /Caste Groups	Population	Total
Chhetri	3593,496	15.8
Hill Brahmin	2896477	12.7
Magar	1622421	7.1
Tharu	1533879	6.8
Tamang	1282304	5.6
Newar	1245232	5.6
Kami	895954	4.0
Yadav	895423	4.0
Musalman	971056	4.3
Rai Kiranti	635151	2.8
Total	14,675,439	68.7

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

Annex IV: Adaptive /Subsistence Strategies of Indigenous Peoples of Nepal

Adibasi/Janajati	Foraging	Horticulture	Pastoralism	Agriculture	Industrialism
1. Raute 2. Kusunda	+	-	-	-	-
1. Kusunda 2. Bankariya 3. Chepang	+/-	+	-	-	-
1. Thami 2. Raji, 3. Hyayu	+/-	+	-	+/-	-
1. Majhi 2. Bote	+/-	-	-	+	-
1. Jirel 2. Larke, 3. Siyar, 4. Tangwe	-	-	+	+	+/-
1. Balung 2. Topkegola 3. Thudam 4. Lhomi (Shinsawa) 5. Sherpa 6. Hyolmo 7. Dolpo, 8. Bhote 9. Lhopa 10. Mugali	-	-	+	-	+
1. Gurung, 2. Byansi	-	-	+	+	+
1. Limbu, 2. Lapcha 3. Yakkha 4. Rai, 5. Sunuwar 6. Surel 7. Tamang 8. Pahari 9. free 10. Baramo 11. Bhujel 12. Dura 13. Chantyal 14. Magar	-	+/-	-	+	-
1. Danuwar 2. Darai 3. Kumal 4. Meche 5. Kisan 6. Santhal 7. Rajbansi, 8. Tajpuriya 9. Dhimal 10. Gangai 11. Jhanga 12. Tharu 13. Dhanuk (Rajbansi	-	-	-	+	-
1. Chairotan, 2. Thakali, 3. Barhi Gaule	-	-	+/-	+/-	+
1. Newar 2. Thakali 3. Marphali Thakali	-	-	-	+	+

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

Note: + means main strategy of subsistence

- does not mean main strategy of subsistence

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

Annex V: Population by Mother Tongue in Nepal		
S.No	Mother Tongue	Total
1	Nepali	11053255
2	Maithili	2797582
3	Bhojpuri	1712536
4	Tharu(Dagaura/Rana)	1331546
5	Tamang	1179145
6	Newar	825458
7	Magar	770116
8	Aawadi	560744
9	Bantawa	371056
10	Gurung	338925
11	Limbu	333633
12	Bajika	237947
13	Urdu	174840
14	Rajmanshi	129829
15	Sherpa	129771
16	Hindi	105765
17	Chamling	44093
18	Santhali	40260
19	Chepang	36807
20	Danuwar	31849
21	Jhangar/Dhangar	28615
22	Sunuwar	26611
23	Bangla	23602
24	Marwadi(Rajasthani)	22637
25	Majhi	21841
26	Thami	18991
27	Kulung	18686
28	Dhimal	17308
29	Angika	15892
30	Yakkha	14648
31	Thulung	14034

S.No	Mother Tongue	Total
32	Sangpang	10810
33	Bhujel/Khawas	10733
34	Darai	10210
35	Khaling	9288
36	Kumal	6533
37	Thakali	6441
38	Chantyal	5912
39	Nepali sain Bhasa	5743
40	Tibetan	5277
41	Dumi	5271
42	Jirel	4919
43	Bambule/umbule	4471
44	Puma	4310
45	H Yolmo	3986
46	Nachhiring	3553
47	Dura	3397
48	Meche	3301
49	Pahari	2995
50	Lepcha/Lapche	2826
51	Bote	2823
52	Bahing	2765
53	Koi/Koyu	2641
54	Raji	2413
55	Hayu	1743
56	Byanshi	1734
57	Yamphu/Yamphe	1722
58	Ghale	1649
59	Khariya	1575
60	Chhiling	1314
61	Lohorung	1207
62	Panjabi	1165
63	Chinese	1101

S.No	Mother Tongue	Total
64	English	1037
65	Mewahang	904
66	Sanskrit	823
67	Kaike	794
68	Raute	518
69	Kisan	489
70	Churauti	408
71	Baram/Marmu	342
72	Tilung	310
73	Jero/Jerung	271
74	Dungmali	221
75	Oriya	159
76	Lingkhim	97
77	Kusunda	87
78	Siddi	72
79	Koche	54
80	Hariyanwi	33
81	Magahi	30
82	Sam	23
83	Kurmali	13
84	Kagate	10
85	Jhonkha	9
86	Kuki	9
87	Chhintang	8
88	Mizo	8
89	Nagamese	6
90	Lhomi	4
91	Assamise	3
92	Sadhani	2
93	Unknown Language	168340
Source: Population Census, 2001		

● ANNEX VI

RESEARCH OBJECTIVES AND METHODOLOGY

Objectives

The main objective of this research is to analyze the laws, policies and program on forest, land and indigenous peoples' rights in Nepal. Specific objectives are to:

- gather and present data on the drivers of deforestation, and existing national laws and policies on forests, land tenure, indigenous peoples and their rights, climate change and REDD.
- present and analyze the processes and mechanisms of designing, implementing, monitoring and evaluating REDD and private stakeholders programs, activities and initiatives that directly affect indigenous peoples and their forests.
- identify the issues and challenges on REDD programs that affect indigenous peoples and their rights.
- identify the various actions and responses to these issues and challenges and demonstrate how these are undertaken.
- provide recommendations on how to address these issues and challenges that affects the forests and the Indigenous Peoples.

Methodology

Though this research is based on secondary information, it is also supported by the primary information. The existing government laws, policies and programs on land tenure, forests, indigenous peoples rights, climate change and REDD were reviewed including the published and non-published books, research reports, journals, articles and papers on climate change, REDD, drivers of deforestation and degradation.

Primary information were collected mainly through key informants' interviews from government agencies, non-

governmental organizations including indigenous peoples' organizations, I/NGOs, researchers and project staffs in Nepal. The draft research report was shared among the indigenous leaders during the Indigenous Peoples' National REDD Strategic Workshop held at Dhulikhel in February 2010 for the verification of the findings and incorporation of inputs to finalize the report.

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