

Indigenous Peoples Development Planning Document

Indigenous Peoples Development Framework
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INDIGENOUS PEOPLES DEVELOPMENT FRAMEWORK

A. Introduction

Indigenous Population in Nepal

1. In Nepal, the indigenous population is popularly known as *Janajatis*, which is also recognized by the government and constitutes about 37.2% (8.4 million) of Nepal's total population. Some of the key characteristics of these groups are defined as: distinct collective identity; own language (other than Nepali), religion, tradition, culture and civilization; own traditional egalitarian social structure (which is distinct from mainstream varna or caste system); traditional homeland and geographical area; written or oral history that traces their line of descent back to the occupants of the territories before their annexation to the present Nepali frontiers.

2. Based on these traits, the Government has declared 61 (later reduced to 59) groups as Janajatis. Given the wide variation in the socio-economic and political standing of various Janajatis, a classification of Janajatis has also been done based on literacy rates, occupation, land ownership, and population, by the National Federation of Disadvantaged and Indigenous Nationalities (a list based on this classification is provided in attachment 1).

3. The constitution has shown commitment for the protection, preservation and promotion of language, religion and culture, affirmative action for IPs and vulnerable groups. It also makes the provision of education in mother tongue up to grade five. But all have not been realized as promised in the constitution.

4. The Tenth Plan (2002-2007) has framed various policies and programs for empowering indigenous people through affirmative action and revision of constitutional and legal provisions for inclusive political and bureaucratic structures. For the welfare of IPs, Government has set up the National Committee for Development of Nationalities in 1997. The Committee has recognized the existence of 61 IPs in Nepal. Realizing this fact, the Ninth Plan (1997-2002) explicitly made the policies and programs for the IPs. The parliament again passed a bill in 2002 for the formation of 'National Foundation for the Development of Indigenous Nationalities', which works for the welfare and empowerment of the indigenous communities, which came into existence in 2003 replacing the previous committee. This foundation has recognized the existence of 59 IPs, and has been working for the preservation of the languages, cultures and empowerment of the marginalized ethnic communities. For example in 2004-2005, it introduced the following programs: Near-extinct language protection program, 10 literacy programs in mother language, Training for 200 women trainers, Dictionary preparation in 5 ethnic languages, Scholarship for 500 students, NFDIN's responsibility of Praja Development Program, Publication of journals and bulletins for raising awareness and 15 vocational development programs focused on traditional skills. In 1999, Local Self-Governance Act was amended to give more power to the local political bodies including authority to promote, preserve and protect the IP's language, religion, culture and their welfare.

5. The tenth plan introduced four strategies for the upliftment of IPs: assist in creating an egalitarian society by providing opportunities for social, educational, economic and cultural development of IPs; promote and protect the language, scripts, culture/literature, art, history of IPs; protect and promote the traditional skills and knowledge of IPs; mainstreaming IPs in the overall development of the country. Marginalized IPs and women are particularly targeted through various programs. This plan aims to establish districts units of IP/Ethnic People Upliftment Academy in all 75 districts to monitor activities meant for IPs. The total outlay in the tenth plan (2002-2007) for IP development (in addition to regular programs which are also meant for IPs) is Rs 1600.00 million, of which Rs 500 million will come from Poverty Alleviation Fund of the government.

6. ADB uses the following characteristics to define indigenous people: (i) descent from population groups present in a given area before territories were defined; (ii) maintenance of cultural and social identities separate from dominant societies and cultures; (iii) self identification and identification by others as being part of a distinct cultural group; (iv) linguistic identity different from that of dominant society; (v) social, cultural, economic and political traditions and institutions distinct from dominant culture; (vi) economic systems oriented more towards traditional production systems rather than mainstream; and (vii) unique ties and attachments to traditional habitats and ancestral territories. Essentially, indigenous people have a social and cultural identity distinct from the mainstream society that makes them vulnerable to being overlooked in development processes.

7. The Project is to improve roads of about 490 km length in 17 districts of Nepal. The Project objective is to reduce poverty and deprivation of relatively isolated people in the hilly northern regions of Nepal, and support economic growth of rural communities by providing enhanced access to various produce, markets, trade, employment opportunities, and administrative and social service centers, including health and education so as to contribute towards the overall development of the economy as well as augmenting economic and social benefits to the poor. The proposed Project covers districts, which are particularly poorer than the average condition of the country. In the three core roads (core roads), the Project covers the districts which have a high concentration of indigenous population (IPs)¹. As compared to 37% of population belonging to indigenous groups in the country, about 50% of the population in the Project districts was found to be from indigenous groups.

8. ADB has selected three core roads covering 7 districts for Project preparation. A significant presence of IPs was found in the core road districts. Taking into account the high proportion of IPs in the project area, focused interactions were undertaken with them in order to ascertain their socio-cultural realities and impact of the project construction on them. Since the project is confined to upgradation & rehabilitation of existing road alignment, it is not expected to affect IPs, particularly with regard to land acquisition within its area of influence. The improved road network is expected to augment access to services of these tribal communities along with other sections of the subproject population. The subproject construction will not have any adverse consequences on the socio-economic condition and would also not lead to any disruption in community life or culture of these communities.

9. However, due to the presence of tribal populations in the Project areas, the Project preparation for non-core subprojects will require necessary assessment of the status of development of IPs to enhance distribution of project benefits and to recommend practical measures to promote IPs development as they might be vulnerable to changes introduced by mainstream development activities, and may not always benefit fully from such development, consequently requiring special attention or assistance.

10. As a result, the an Indigenous Peoples Development Framework (IPDF) is intended to guide the preparation of additional non-core subprojects under the Project to ensure better distribution of the project benefits and promote development of the IPs in the project areas of influence. If any impact on tribal population is identified during subproject planning, an Indigenous People's Development Plan (IPDP) or specific actions will be formulated in

¹ ADB regards IPs as one of the largest vulnerable segments of society most often reflecting, as a whole, specific disadvantage in terms of social indicators, economic indicators and quality of life (ADB, 1999:1). While fully recognizing the sovereignty of the borrowing country, the Bank accepts that it has a responsibility for ensuring (i) equality of opportunity for national minorities and (ii) that its operations and assistance to developing member countries do not negatively affect the welfare and interests of national minorities (ADB, 1999:2). The ADB's (1999) defines IPs by two significant characteristics (p. 5) (i) descent from population groups present in a given area, most often before modern states or territories were created and before modern borders were defined and (ii) maintenance of cultural and social identities; and social, economic, cultural, and political institutions separate from mainstream or dominant societies and cultures. In new areas to which they are not indigenous, but have maintained a definite and separate social and cultural identity and related social institutions, the second identifying characteristic would carry greater weight (p. 5).

consultation with the affected people as required, in accordance with requirements for sector loans and also ADB's Policy on *Indigenous People (1998)*.

C. IPDP Policy Framework

11. The need for a full IPDP will depend on the nature and magnitude of the project impacts and sensitivity of the IPDP issues and will be established on the basis of the following criteria set out in ADB's *Policy on Indigenous People* to determine if project impacts are significant: (i) adverse impacts on customary rights of use and access to land and natural resources; (ii) negative impacts on socio-economic and cultural identity; (iii) impacts on health, education, livelihood and social security status; (iv) any other impacts that may alter or undermine indigenous knowledge and customary institutions. If, the impacts are in-significant² or limited then specific actions in favour of the indigenous people will have to be integrated in the Resettlement Plan for the subprojects or a community / tribal development plan can be included. This would ensure appropriate mitigations and benefits for the indigenous people. If impacts are significant, a full IPDP is required. The Framework is based on the overall local and national development strategies and ADB's policy on Indigenous peoples. The principal objectives are mainly to:

- (i) Ensure that indigenous population affected by any projects benefit from the investment project;
- (ii) Ensure indigenous population's inclusion in the entire process of preparation, implementation and monitoring of project activities;
- (iii) Ensure that the benefits of the projects are available to indigenous population more than or at least at par with the rest of the affected groups; this may require preference to more vulnerable indigenous groups over others.
- (iv) Provide a basis for the indigenous groups in the homeland to receive adequate development attention.

D. Procedures for IPDP Preparation

12. The framework seeks to ensure that indigenous people and tribal communities are informed, consulted and mobilized to participate in the Project. Their participation can either provide those benefits with more certainty, or protect them from any potential adverse impacts of the Project. The main features of the IPDP will be a preliminary screening process, then a social impact assessment to determine the degree and nature of impact of each work under the Project, and an action plan will be developed if necessary. Consultations with and participation

² The significance is decided by scrutinizing the type, location, scale, nature, and magnitude of a project's potential impacts on indigenous peoples. The impacts of ADB's projects on indigenous peoples will be considered 'significant' if they positively or negatively (i) affect their customary rights of use and access to land and natural resources; (ii) change their socioeconomic status; (iii) affect their cultural and communal integrity; (iv) affect their health, education, livelihood, and social security status; or (v) alter or undermine the recognition of indigenous knowledge. The categories are - Category A. Such projects are expected to have significant impacts that require IPDP and/or IPDF. Category B- Such projects are expected to have limited impacts. Specific action for indigenous peoples, specified in the report and recommendation of the President (RRP) and in related plans, is required to address the limited impacts.

of the tribal communities, their leaders and local government officials will be an integral part of the overall IPDP. The IPDPs will consist of the following sections:

- Preliminary screening
- Social impact assessment
- Mitigation measures
- Development assistance
- Project monitoring

Screening

13. The Chief Resettlement Officer (CRO) supported by the Social Development/Resettlement Specialist from the feasibility, design and construction supervision consultant (Consultant) for the project preparation and implementation will visit all tribal settlements and villages near the subprojects or in likelihood of being affected and influenced by the Project. DOR and consultants will arrange public meetings in selected communities including village leaders to provide information about the project and take their views regarding the Project. At this visit, the specialist of the Consultant and CRO will undertake a screening for ethnic minority population with the help of ethnic minority leaders and local authorities. The screening will look into the name(s) & details of tribal community group(s) in the village especially assessing the number and percentage of tribal community households along the zone of influence of the proposed project. If the results show that there are tribal community households in the zone of influence of the proposed Project, a social impact assessment (SIA) will be planned for those areas.

Social Impact Assessment

14. The CRO and the specialist from Cosnsultant will be responsible for undertaking SIA study. The SIA will gather relevant information on demographic data; social, cultural and economic situation; and social, cultural and economic impacts – positive and negative. Information will be gathered from separate group meetings within the tribal community, including tribal leaders; group of tribal men and women, especially those who live in the zone of influence of the proposed components under the Project. Discussions will focus on the positive and negative impacts of Project as well as recommendations on the project design. The CRO and the Consultant will be responsible for preparing the SIA and the development of an action plan with the tribal community leaders. If the SIA indicates that the potential impact of the proposed Project will be significantly adverse, threatening the cultural practices and their source of livelihood, the EA will consider other design options to minimize such adverse impacts and will prepare an IPDP. In case wherein the SIA identifies that the project will have significant differential impact compared to the mainstream population, an IPDP will be prepared to enhance distribution of project benefits and promote the development of IPs.

Indigenous People Development Plan (IPDP)

15. The IPDP will consist of a number of activities and include mitigation measures of potential negative impacts through modification of project design and development assistance to enhance distribution of project benefits. Where there is land acquisition or structural losses in tribal communities, the Project will ensure that their rights will not be violated and that they be compensated for the use of any part of their land in a manner that is culturally acceptable to them. The compensation measures will follow the Resettlement Framework (RF) of the Project.

16. The IPDP will include (i) baseline data; (ii) land tenure information; (iii) local participation; (iv) technical identification of development or mitigation activities; (v) institutional arrangement; (vi) implementation schedule; (vii) monitoring and evaluation; and (viii) cost estimate and financing plan. The EA/IA will submit the IPDP to the ADB for review and approval prior to award of civil works contract. The IPDP policy and measures must comply with ADB's *Policy on Indigenous Peoples*.

E. Consultation, Disclosure and Institutional Framework

17. MPPW will be the EA and DOR be the IA. A PIU will be established for the Project and DOR will engage a Chief CRO to co-ordinate activities related to resettlement and IPs issues. For preparation of project IPDP, the EA will have overall coordination and financing responsibilities while the CRO with the support from Social Development/Resettlement Specialist under the Consultant will prepare, implement and monitor the IPDP. Since indigenous issues are sensitive, the IA will engage a local NGO with experience of working amongst indigenous groups for assisting in the planning and implementation of the IPDP. The EA will ensure that the agency/NGO engaged is familiar with ADB policy and requirement of IPDP.

18. The IPDP will be prepared in consultation with the affected indigenous groups. The mitigation measures and strategies will be presented to them in community level workshops for their inputs before being finalized. The IPDP will be translated into the local language(s) prior to implementation and will be disclosed.

19. The existing indigenous people's institutions (like *Janajati Mahasangh* or National Federation of Disadvantaged and Indigenous Nationalities or the specific organizations of the ethnic groups affected by the project) and organizations will be involved in the implementation of IPDP and in the resolution of any dispute arising out of the implementation process. The EA will further ensure that adequate budget will be available to implement IPDP.

F. Monitoring and Evaluation

20. Both internal and external agencies will monitor the implementation of the IPDP. DOR will establish a bi-annual monitoring system involving project staff, implementing NGO, affected ethnic (indigenous) groups, and local organizations of the ethnic groups to ensure participatory monitoring arrangements. A set of monitoring indicators needs to be determined during IPDP implementation. Independent monitoring agency/expert to be engaged by the EA/IA for monitoring resettlement implementation will also carry out external monitoring for IPDP. Appropriate monitoring formats will to be prepared for internal and external monitoring and reporting requirements.

Attachment 1

Classification of Janajatis

Endangered Groups	Bankariya, Kusunda, Kushbadia, Raute, Surel, Hayu, Raji, Kisan, Lepcha, Meche
Highly Marginalized Groups	Santhal, Jhangad, Chepang, Thami, Majhi, Bote, Dhanuk (Rajbansi), Lhomi (Singsawa), Thudamba, Siyar (Chumba), Baramu, Danuwar.
Marginalized Groups	Sunuwar, Tharu, Tamang, Bhujel, Kumal, Rajbansi (Koch), Gangai, Dhimal, Bhote, Darai, Tajpuria, Pahari, Dhokpya (Topkegola), Dolpo, Free, Magal, Larke (Nupriiba), Lhopa, Dura, Walung
Disadvantaged Groups	Jirel, Tangbe (Tangbetani), Hyolmo, Limbu, Yakkha, Rai, Chhantyal, Magar, Chhaintan, Tingaunle Thakali, Bahragaunle, Byansi, Gurung, Marphali Thakali, Sherpa.
Advanced Group	Newar, Thakali
<i>According to this classification there are 10 'endangered groups', 12 'highly marginalized groups', 20 'marginalized groups', 15 'disadvantaged groups', and 2 'advanced groups'. Considering the diverse cultures, races, languages and customs, the Constitution of Nepal, 1990, has recognized the existence of 'tribes and indigenous people' in the country</i>	