

Indigenous Peoples Planning Framework

NEP: Project Preparatory Facility For Energy

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LIST OF ABBREVIATIONS

ADB	:	Asian Development Bank
AP	:	Affected People
BCT	:	Brahman, Chhetri and Thakuri
CBO	:	Community-based Organizations
CDC	:	Compensation Determination (Fixation) Committee
DDC	:	District Development Committee
EA	:	Executing agency
ESDD	:	Environmental and Social Development Division
GRM	:	Grievance Redress Mechanism
IA	:	Implementing Agency
IPs	:	Indigenous Peoples
IPPF	:	Indigenous Peoples Planning Framework
IPP	:	Indigenous Peoples Plan
ISA	:	Initial Social Assessment
JICA	:	Japan International Cooperation Agency
MIS	:	Management Information System
NEA	:	Nepal Electricity Authority
NFIDN	:	National Foundation for Development of Indigenous Nationalities
NGO	:	Non-Governmental Organization
NRM	:	Nepal Resident Mission
PAH	:	Project affected household
PIC	:	Public Information Centers
SIA	:	Social Impact Assessment
SPS	:	Safeguards Policy Statement
SU-2	:	Sunkoshi - 2
SU-3	:	Sunkoshi - 3
TL	:	Transmission line
VDC	:	Village Development Committee

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1 PROJECT INTRODUCTION

1. The Facility will support two components: Component A and Component B.

Component A: Project preparatory activities to identify the feasibility of at least four large hydropower projects and a second Nepal- India 400 kilo-volt (kV) cross border transmission line project. The activities for Component A will involve the following:

- (i) Feasibility Study (FS) including environmental impact assessment/social impact assessments (EIA/SIA) of 1,110 MW Sunkoshi 2 (SU-2) (storage type) located in Sindhuli and Ramechhap Districts, and 536 MW Sunkoshi 3 (SU-3) (storage type) located in Kavrepalanchowk and Ramechhap Districts ;
- (ii) Updating the FS including EIA/SIA and detailed engineering study (DES) of 300 MW Dudh Koshi Hydropower Project (storage type) located in Okhaldhunga – Khotang Districts;
- (iii) FS including EIA/SIA of the 400 kV second cross border transmission line (approximately 110 km) from Butwal/Bardghat (Nepal) to Anandnagar/Gorakhpur (India); and,
- (iv) Recruitment of Project Implementation Consultants (PIC) and Panel of Experts (POE).

Component B: Project development services for a public-private partnership (PPP) to facilitate an investment for a hydropower project with potential power export to India. The Ministry of Energy (MOE) proposed the 410 MW Nalsaugadh Hydropower Project as one of the potential projects. An initial due diligence will be conducted to identify the most suitable project for PPP.

2. This Indigenous Peoples Planning Framework (IPPF) provides policy and procedures to screen project impacts on indigenous peoples (IPs) and to prepare an appropriate planning document, Indigenous Peoples Plan (IPP) to safeguard their rights in accordance with domestic laws, ADB's Safeguard Policy Statement (SPS) (2009).

3. In Nepal, Janajati are recognized by domestic laws as indigenous/tribal people and their presence has been noted in the Project areas. These tribal communities trigger ADB's safeguard policy requirements pertaining to IPs.

4. Impact of the reservoir type of the project could be the same and SU-2 was selected for the sample study project whose findings can be generalized for the Facility. This framework was developed as a result of in-depth consultation with IPs at field level (project affected area) and ADB staff at Nepal Resident Mission (NRM). First draft was

prepared after first field visit and finalized after second field visit. Community were very serious on this project especially for their entitlement for involuntary resettlement. Currently, road construction - BP highway and mid-hill highway - is in progress, and people shared their dissatisfaction with government behaviors about compensation. During consultation with IPs, they mentioned that proposed project would inundate and displace their house, farming land, grazing land and forest, market places, social and cultural assets, road and fishing opportunity and fish population, etc. As a result of these affects, situations of IPs would be further marginalised as a result of loss of livelihoods means, socio-cultural assets and safety net and negative effect in basic services. AP mentioned that in BP and Mid-hill highway, no proper consultation with affected people (AP) were undertaken while finalizing the compensation, and unnecessary pressure and force were used e.g. land and buildings were demolished at midnight, and AP did not get proper compensation of their land and building. So, during consultation with AP, they strongly mentioned that unnecessary pressure and forceful action for land acquisition and house demolition like in BP and Mid-hill highway should not be taken by government and executing agency in SU - 2 hydropower project, and AP should be consulted in meaningful way for proper compensation and other developmental and economical activities required to rehabilitate the AP. Thus, before the decision of project implementation they need the assurance for proper compensation for project affect.

2 SCOPE OF IMPACTS ON INDIGENOUS PEOPLES

2.1 Indigenous People in Nepal

5. In Nepal, indigenous/tribal communities are popularly known as Adibasi/Janajati. There are 129 ethnic/caste groups listed by the Central Bureau of Statistics, Nepal (2011 Census). IPs population is 37.2% of total population (Three year interim plan, 2010-2013). According to National Foundation for Development of Indigenous Nationalities (NFIDN), Act, 2000 there are 59 Janajati groups. In terms of ecological zones, 19 groups are in Mountain region, 24 in hilly region and 16 in Terai region. Among the key characteristics of these tribal communities are: distinct collective identity, own language (other than Nepali), distinct traditions and cultures, traditional egalitarian social structure (which is distinct from mainstream varna or caste system), and their written or oral histories.

6. Based on the level of their socio-economic status, NFIDN has classified them into five broad categories, namely, advanced, disadvantaged, marginalized, high Marginalized and endangered group. Detail of IPs categories is given in table 1.

Table 1: IPs groups and their category in Nepal

Socio-economic classification of IPs	Ecological belt			Total
	Mountain	Hill	Terai	
Advanced group	Thakali	Newar	-	2
Disadvantaged group	Bara Gaule, Byansi (Sauka), Chhairotan, Marphali, Thakali, Sherpa, Tingaule Thakali, Tangbe	Chhantyal, Gurung (Tamu), Jirel, Limbu (Yakthung), Magar, Rai, Yakkha, Hyolmo	-	15
Marginalized group	Bhote, Dolpo, Larke, Lhopa, Mugali, Topkegola, Walung	Bhujel, Dura, Pahari, Phree, Sunuwar, Tamang	Darai, Kumal, Dhimal, Gangai, Rajbanshi (Koch), Tajpuriya, Tharu	20
Highly marginalized group	Shiyar, Shingsawa (Lhomi), Thudam	Baramu, Thami (Thangmi), Chepang	Dhanuk (Rajbansi), Jhangad, Santhal (Satar), Bote, Danuwar, Majhi	12
Endangered group	-	Bankariya, Hayu, Kusbadiya, Kusunda, Lepcha, Sural	Raji, Raute, Kisan, Meche (Bodo)	10
Total	19	24	16	59

Source: National Foundation for Development of Indigenous Nationalities Act, 2002.

7. IPs groups living in Su-2 sample study project, direct and indirect project area potentially to be affected are given in Table 2.

Table 2: IPs groups living in direct and indirect impact zone of the project area

Socio-economic classification of IPs	Ecological belt	Total IPs groups
	Hill ¹	
Advanced group	Newar	1
Disadvantaged group	Magar	1
Marginalized group	Bhujel, Sunuwar and Tamang	3
Highly marginalized group	0	0
Endangered group	Hayu,	1
Total	6	6

Source: Field study, May - June 2013.

2.2 Caste/ethnic Composition of Project Area

8. Under the Facility, sample study of SU2 was undertaken for IPPF. and the population of SU-2 project affected households (PAHs) fall into three main categories: i) Brahman, Chhetri and Thakuri (BCT), ii) Janajatis, and iii) Dalit. Table 3 presents their caste/ethnic composition of direct and indirect impact zones of project area.

Table 3. Estimated population of caste/ethnic groups in direct impact zone of the Sun Koshi -2 sample project potentially to be affected

Caste/Ethnic groups	Total population				Population to be potentially affected			
	HHs	Population	Male	Female	HHs	Population	Male	Female
Brahman, Chhetri and Thakuri (BCT)	2434	12879	6254	6625	966	5121	2512	2609
Janajati	4590	24689	12025	12664	1063	5763	2805	2958
Dalit	1144	6828	3291	3537	438	2472	1175	1297
Total	8168	44396	21570	22826	2467	13356	6492	6864

Source: Approximate projected figure based on 2011 census to 2013 AD) and VDC profile 2067 and field study May - June 2013.

Note: Male and female population has been estimated based on sex ratio of district.

9. The IPs population potentially to be affected from SU-2 project in direct impact zone (VDCs within 575 meter above sea level (masl) which will be potentially to be

¹ Nepal has three ecological belt - mountain, hill and terai - , and project area falls in hilly region.

inundated all the time) and indirect impact zone (VDCs between 575 to 595 masl, and potentially to be inundated if water level is above 575 masl) are given in Table 4.

Table 4. Estimated population of IPs in direct and indirect impact zone of the Sunkoshi-2 hydropower (sample) project potentially to be affected

Janajati groups	Total HHs				Affected HHs			
	HHs	Population	Male	Female	HHs	Population	Male	Female
Advanced (Newar)	1611	8483	4131	4352	495	2606	1293	1313
Disadvantage (Magar)	547	2906	1395	1511	163	918	441	477
Marginalized (Tamang, Bhujel and Sunuwar)	1222	6673	3260	3413	185	1028	489	539
Highly Marginalized (Majhi)	1140	6243	3053	3190	192	1045	501	544
Endangered (Hayu)	70	384	186	198	28	166	81	85
Total	4590	24689	12025	12664	1063	5763	2805	2958

Source: Approximate projected figure based on 2011 census to 2013 AD) and VDC profile 2067 and field study May - June 2013

Note: Male and female population has been estimated based on sex ratio of district.

2.3 Socio-economic Status of the Affected Indigenous People

10. In Project area of sample study project (SU-2), the Newar are the major Janajati groups followed by Majhi and lowest is Hayu (Table 4) to be potentially affected by the project. Socio-economic situation of Hayu (endangered IPs) and Majhi (highly marginalized IPs) is poor in comparison to other IPs groups and other caste.

11. Hayu² are living only in Ramechhap and Sindhuli districts. The socio-economic situation of Hayu is miserable among the IPs. They have high family size (9-12) and high

² In Sindhuli, they have been migrated from Ramechhap. Total HHs of Hayu in Ramechhap districts is 194 HHs (Sukajhour - 157 HHs, Ramechhap - 35 HHs and Okhrenei - 2 HHs) and in Sindhuli - Basheshor they are 24 HHs (Basheshor - 7 HHs, Sitalpati - 13 HHs and Purano Jhangajholi - 4 HHs).

number of children (6-8). None of the aged population (more than 40 years) are literate, and most of the population of new generation are literate due to government allowances and scholarship facilities. Main source of livelihoods is servant (working for other HHs), wage labor, fire wood collection from forest and selling, agriculture, livestock raising especially goat and pig, remittance, and government jobs. They have small area (10-50 Ropani³) of sloppy and marginalized land without irrigation facilities, and own production is sufficient only for 3-4 months per year. They don't have land for rice cultivation. In winter they cultivate legumes, maize, millet, sorghum, GAHAT and KAGUNI. KAGUNI has cultural values and they need this cereals in different rituals. They have access to community forestry. MAHAKALI/DEVI POOJA (goddess worship) is famous culture, and temple of MAHAKALI is in Muthajour village in Sukajhour VDC, and dancing ceremony is reknown and only men are allowed to dance. CHANDI POOJA is famous and only male will perform and female are not allowed to participate in CHANDI POOJA. They have special place for CHANDI POOJA in Ramechhap VDC. DEVI POOJA AND CHANDI POOJA are main cultural festivals of Hayu. Dashain, Tihar, Maghe shankranti and Dashain are other festivals. Generally, they observe three days for mourning and someone will observe up to 7 and 9 days. 'Hayu Utthan Samaj' is their organization and all Hayu are member of that organization. They don't have their own social safety net. For Hayu, Government has provided financial assistances of NRs 1000/person/month), support in education services and provision of employment opportunity in government services, as a result they have been benefited from these assistances. As a result of poverty, Hayu have been migrated, and those who have out migrated they have done good progress in their status. Due to lack of illiteracy and social attachment with the place of birth, people, especially elder, have strong reluctance for out migration. They have their own languages and languages is same for all Hayu population. Youth have started schooling and out migration is taking place. Now the situation of Hayu is gradually increasing.

12. The Majhi is the largest IPs population living in project affected area, and they are rich in culture in comparison to other IPs groups. The socio-economic status of Majhi is better than Hayu. They have their own language but differ from location to location. Because of the indebtedness and land fragmentation due to family breakdown, now, most of the Majhi's families have small piece of land and their situation is miserable, and socio-economic situation is poor. They have average 8-10 family size, and they are characterized by idle and alcoholic. They are backwards and marginalized due to lack of education, lack of access to employment and limited area of agricultural land. They have weak economic situation and health and hygiene is not satisfactory. They have been victimized by elite groups due to illiterate, ignorant/ innocent. Most of the Majhi have their own land and they have small area of encroached land adjacent to their own land. Now, Majhi's communities have average 5 - 100 Ropani of land (but about 100 years ago, they were acquiring 35 - 200 Ropani). Major source of income of Majhi are farming, wages, vegetable production, livestock raising (goat, sheep, cow and buffaloes), chicken, business, fishing, services and foreign remittances. Winter season is good for fishing, and some time monthly income will be Rs 10,000 to 15,000. About 20% of total fishermen are doing commercial fishing and rest of them are doing subsistence fishing. They will have big negative impact from the project. Culture and heritage will be completely dismantled.

³ One hector is equivalent to 20 Ropani of land.

There will be significant loss in social cohesion, culture (Bhimi Pooja, Koshi pooja, Kul pooja, Jakhani pooja and Sansari pooja) and integrity.

13. The Newar is another important IPs group to be affected by project. They will celebrate Dashain, Tihar and other festivals like other case, and Kulpooja (clan worship) is their cultural festival. Newar will celebrate BRISKET festival and KWATIPURNE. Major source of livelihoods are agriculture, business, services, wages and remittance. Socio-economic situation of Newar is similar to Brahman, Chhetri and Thakuri (BCT). Literacy rate is similar to BCT and for food deficit families, there is no any negative coping mechanism (selling of productive assets).

14. There will be no any positive impact from the project to all IPs. The cultivated lands and forest that will be potentially affected by project will comprise traditional land or ancestral domains of IPs community especially for Hayu and Majhi. The temples and other religious structures/places will be permanently inundated by reservoir. In most of the cases, each affected land plot is individually owned by the IPs. Culturally, GUTHI (social trust) of Newar will have negative impact of the project resulting to loss of social integrity, assets and safety net which could increase the degree of vulnerability. Social interaction, exchange of information and mutual cooperation and support will have negative impact from the project. Loss of access to source of livelihoods including indigenous skills and occupation would further aggravate the miserable socio-economic situation of Majhi and other IPs. Majhi will be heavily impacted in comparison to other IPs groups due to loss of fishing profession.

3 OBJECTIVES AND POLICY FRAMEWORK

15. IPPF seeks to ensure that IPs are informed, consulted, and mobilized to participate in the project preparation, implementation and impact monitoring. The Framework is prepared in accordance with ADB's SPS 2009 and national laws and the policies of Nepal.

3.1 Policies and Legal Framework in Nepal

16. The Interim Constitution of 2007 recognizes the diversity of Nepal (art. 3) and defines the country as a secular, inclusive and democratic State (art. 4). It further recognizes the status of different mother languages of various groups as national languages enabling their use in the state activities (art. 5). Each such community has the right to preserve and promote its own language and cultural heritage as well as to receive basic education in its mother tongue (art. 17). In addition, the Constitution recognizes the rights of Adivasi/Janajati to “participate in State structures on the basis of principles of proportional inclusion” (art. 21), and authorizes the State to implement special measures “for the protection, empowerment and advancement of indigenous nationalities” (art. 13).

17. The specific policy initiatives for the advancement of Adivasi/Janajati and other communities started in 1997. The National Foundation for Development of indigenous Nationalities (NFDIN) as set up to ensure the welfare of Adivasi/Janajati. In 2002, the Parliament passed a bill enabling the establishment of NFDIN. The NFDIN Act 2002 established the first comprehensive policy and institutional framework pertaining to

Adivasis/Janajatis. The NFDIN is a semi-autonomous body that acts as the State's focal point for indigenous policy, with a mandate to recommend measures to promote the welfare and development of IPs focusing to social, economic, and cultural rights and requirements.

18. The NFIDN Act 2002, National Human Rights Action Plan 2005, Environmental Act 1997, and Forest Act 1993 have also provided for the protection and promotion of Janajatis' traditional knowledge and cultural heritage. The Local Self-Governance Act (1999) gave more power to local political bodies to promote, preserve and protect Janajatis' language, religion, culture and welfare.

19. The Three Years Interim Plan (2007-2010) included following policies for inclusive development of Janajatis' and other disadvantaged groups: (i) creation of an environment for social inclusion; (ii) participation of disadvantaged groups in policy and decision making; (iii) development of special programs for disadvantaged groups; (iv) positive discrimination or reservation in education, employment; (v) protection of their culture, language and knowledge; and (vi) proportional representation in development.

20. The Three Years Interim Plan (2010-2013) focused for inclusive development of IPs and included following strategies for inclusive development of Janajatis' groups: (i) arrangement of required policy and structures for increasing access to resources and services through mainstreaming of endangered groups of IPs and other IPs groups in development process and outcomes, (ii) ensure rationale representation of excluded communities in states decision making process and exclude in structures, (iii) improvement in policy, legal and structural provisions for development of Adibasi/Janajati and endangered IPs groups and community and (iv) empowerment of Adibasi/Janajati, minorities and endangered IPs groups and community through affirmative action and inclusion by implementation of targeted programmes.

3.2 ADB Safeguard Policy Statement (SPS) (2009)

21. The objective of ADB SPS (2009) on IPs is to help design and implement projects in a manner that would foster respect for IPs identity, dignity, human rights, livelihoods systems, and cultural uniqueness, as defined by IPs themselves, so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them. The SPS uses the term 'IPs' in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:

- (i) Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- (ii) Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;
- (iii) Customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
- (iv) Distinct language, often different from the official language of the country or region.

22. The IPs safeguards in SPS trigger when a project affects the dignity, human rights, livelihoods systems, or culture of IPs or affects the territories or natural or cultural resources that IPs own, use, occupy, or claim as an „ancestral domain or asset.

3.3 Gap Analysis of Laws and Policies of Government of Nepal and ADB SPS (2009)

23. For provision of IPs, there are different gaps in government of Nepal's laws and policy and ADB SPS 2009, and those are given in table 5.

Table 5: Gap analysis of laws and policies of government of Nepal and ADB SPS related to IPs and gap filling measures

Area	Nepal provision for IPs	ADB SPS 2009 requirements	Gaps between Nepal's law and ADB SPS requirements	Gap filling measures
Definition	Consideration of identity only	Explores viable alternative for protection of identity and vulnerability	Nepal law and policy are silent for support to vulnerability	Multiple social, economical and technical options will be explored to avoid or minimize identity and vulnerability
Level of impact measurement	Provision of reservation considering for inclusion of IPs	Provision of social safeguards and assessment of differential impacts and vulnerability	Local laws are silent on assessment of differential impact and vulnerability	Detail assessment will be undertaken to identify different level of impact
Planning	Silent about the planning for impact mitigation	Provision of proper planning to mitigate the impact	Local laws have lack of planning and provision to avoid or mitigate the adverse	Possible options will be explored to avoid or mitigate the impact and capacity

			impact	development of stakeholders
Institution point of view	Silent about the protection of IPs from projects impact	Clear provision for safeguard requirements for IPs	Nepal's laws and policies are ignorant about the safeguards for IPs	Possible measures will be explored for protection of IPs
Impact response	No any provision for impact response for IPs	Clear provision to address the impact of IPs	Local laws are silent on impact response	All possible options will be explored to address the impact through culturally sensitive manner.

24. IPs will be identified based on the definition of government of Nepal provided by National Foundation for Development of Indigenous Nationalities Act, 2002. Level of impact to IPs will be determined as per ADB SPS 2009.

3.4 Objectives of the IPPF

25. Following the National Policies on IPs, and incorporating indigenous peoples policies of ADB and government, the IPPF has been prepared to guide the formulation of project components, ensuring equal distribution of project benefits between IPs and non- IPs who are affected by the Project. The principal objectives of the IPPF are to:

- (i) screen project components early to assess their impacts on IPs households;
- (ii) ensure meaningful participation and consultation with affected *Janajati* persons in the process of preparation, implementation, and monitoring of project activities;
- (iii) prepare an IPP to mitigate any adverse impacts found;
- (iv) ensure that IPs receive culturally appropriate social and economic benefits;
- (v) define the institutional arrangement for screening, planning and implementation of IP plans for projects; and
- (vi) outline the monitoring and evaluation process.

3.5 INDIGENOUS PEOPLES PLAN (IPP)

26. An indigenous peoples plan (IPP) is required for all the projects if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of the IPs or

affects the territories or natural or cultural resources that IPs own, use, occupy, or claim as their ancestral domain.

27. In accordance with SPS, in case the physical relocation of IPs results in adverse impacts on their identity, culture and customary livelihoods and if such avoidance is impossible then the EA in consultation with ADB could formulate a combined Indigenous Peoples Plan and Resettlement Plan to address both involuntary resettlement and Indigenous Peoples issues. If indigenous people are the majority of the direct project beneficiaries and when only positive impacts are identified, the elements of the IPP could be included in the overall project design in lieu of preparing a separate IPP. In such cases the project documents should explain the requirements of meaningful consultations are fulfilled in accordance with the requirements of SPS.

28. This framework seeks to ensure that IPs are informed, consulted, and mobilized to participate in the additional subprojects. Their participation can either provide them benefits with more certainty, or protect them from any potential adverse impacts of the additional subproject. The main features of the IPP will be a preliminary screening process, a social impact assessment to determine the degree and nature of impact of each additional project, and an action plan developed if needed. Meaningful consultations with and participation of IP communities, their leaders, and local government representatives will be an integral part of the overall IPP. An outline of IPP is given in Appendix 1.

4 PROCEDURES FOR PROJECT PLANNING

29. This section provides detailed procedures for screening, potential social impact assessment, meaningful consultation, and the formulation of IPP for the project and project components. In preparing IPP, the executing agency (EA) will pay special attention to the requirement that IPs are informed, consulted, and provided opportunities to participate in project planning, implementation and monitoring and benefit sharing in a meaningful and culturally appropriate manner.

4.1 Screening and Categorization of Impacts on IPs

30. Initial screening of a project components and potential impacts on IPs needs to be conducted to categorize the significance of impacts as well as to ascertain the resource requirements to address potential impacts. The screening should be done by the EA and Village Development Committees (VDCs) representatives and a District Development Committee (DDC) where IPs are residing. In case there are any changes in the scope and design of the project or project component, a fresh screening of potential impacts needs to be conducted. The EA will determine whether the affected community is an IP community. The EA will consult DDC and VDC and hold meetings with social and IPs leaders and/or NGOs/CBOs representing the affected communities in the project or project component area in order to prepare a census of the affected population and the likely impacts of the project or project component on them.

31. The project or project component needs to be categorized according to the significance of impacts on IPs communities. The significance of project impacts can be determined by the type, location, scale, nature, and magnitude of potential impacts. The

project or project component should be categorized into one of the followings:

- (i) Category A: expected to have significant impacts on IPs that require IPP;
- (ii) Category B: expected to have limited impacts that require specific action for IP in resettlement plans and/or a social action plan; and
- (iii) Category C: not expected to have impacts on IPs and therefore do not require special provision for IPs.

32. The impacts on IPs should be considered significant, if the project or project component positively or negatively: (i) affect their customary rights of use and access to land and natural resources; (ii) change their socio-economic status and livelihoods; (iii) affect their cultural and communal integrity; (iv) affect their health, education, sources of income and social security status; and/or (v) alter or undermine the recognition of indigenous knowledge.

33 Screening criteria for this Facility is the significant impact on IPs population and level of potential impacts of the proposed project on IPs. In sample study of SU - 2 project affected area, a total of 1,063 HHs and 5,763 population will be potentially to be affected resulting to negative impact on access to farming land and natural resources, socio-economic and livelihoods situation, cultural and communal integrity, basic services like health and education, etc. This situation can be generalized in Sunkoshi - 3 (SU-3) project affected area and cross boarder transmission line (180 km) area but different degree of impact could be different. Example of sample study of SU-2 project showed significant effect in project area, and there are possibilities of similar effect in reservoir types of project. So such project could fall in category A project based on ADB SPs 2009.

34. Project will displace land and forests and religious places including burial places within customary lands of IPs which would impact the livelihoods, culture, ceremonial, spiritual uses of IPs.

35. Such storage type facility constructed for hydropower generation in similar setting could displace the community resulting to similar impacts, and such impacts could be considered during project designing process and project cycle management.

4.2 Social Impact Assessment and Preparation of Indigenous People Plan

36. The EA needs to undertake a social impact assessment (SIA) as part of the detailed study of the project or project component. The SIA should gather relevant information on demographic data (sex, caste/ethnic groups, vulnerable groups, socially excluded groups - disaggregated); social, cultural and economic situation; and social, cultural and economic impacts of the project or project component. The information to be gathered for the SIA should include (i) a baseline demographic, socioeconomic, cultural, and political profile of the affected indigenous groups in the project area and project impact zone; (ii) assessment of land and territories that IPs have traditionally owned or occupied; (iii) assessment of natural resources on which IPs depend; (iv)

assessment on their access to and opportunities they can avail of the basic and socio economic services; v) assessment of the short and long term, direct and indirect, positive and negative impacts of the project on each group's social, cultural and economic status; (vi) assessing and validating which indigenous groups will trigger the Indigenous peoples policy principles; and (vii) assessing the subsequent approaches and resource requirements for addressing the various concerns and issues of projects that affect them. The information can be gathered through meaningful consultation process. Indicative checklist for SIA (not exhaustive) is given in Appendix 2.

37. The SIA should be conducted by using standard and accepted study methodology adopted in social study. Combination of quantitative and qualitative methods will be undertaken to verify the information and data collected. Either census or sampling method can be used. While taking the sample, universally accepted sample methodology and statistically representative and significant sample size should be taken.

38. Human resources, funds and time resources are required for the SIA. Based on the experiences of study of SU - 2 sample project, about five months and about USD 60, 000 will be required for completion of SIA of IPs of one project under the Facility.

39. While conducting the SIA, involvement of all IPs groups in consultation process should be ensured by informing, inviting and participating during consultation process in each steps of project cycle - assessment, planning, implementation and monitoring and evaluation. Additionally, IPs organizations and IPs leaders should also be involved in consultation process to understand their prevailing situations including socio-economic, access to information, and understanding and interpretation capacity. Consultation process should be conducted in culturally sensitive manner through involving the SIA team who have through knowledge and respect on diversity and IPs cultures, systems, norms and values. Consultation process should be wider, process oriented, inclusive, meaningful and in-depth. Potential mechanism of consultation (not exhaustive) could be 1) in-depth consultation with IPs organizations present at project area, 2) consultation with IPs communities, 3) institutional consultation (government, civil society organizations). Methods of consultations could be (not exhaustive) focus group discussions, in-depth meetings, mass meeting/consultation, key informant interviews, household survey, observation, institutional interview, consultation with government authority and agencies, etc. Discussions should focus on potential positive and negative impacts of the project or project component; measures to enhancing positive impacts on them; and strategies/options to minimize and/or mitigate negative impacts on them. Based on the SIA findings, the project or project component can develop appropriate mitigation measures including socio-economic and livelihoods enhancement activities for IPs. In case of limited impacts, specific actions for IPs can be spelled out in a Resettlement Plan for the project or project component. If SIA identifies significant differential impacts on IPs from the mainstream population, an IPP will be prepared to ensure that the distribution of project benefits would reach IPs.

40. Local IPs can be confidently used to facilitate the consultation process who could be familiar with local (IPs) language (local IPs were used in consultation process while preparing the preliminary SIA for this facility including the consultation with IPs groups).

Combination of different methods like poster, brochures and FM broadcasting should be used to ensure the participation of IPs groups in all venues of consultation. Key stakeholders should be presented in the consultation process, and culturally appropriate and gender sensitive process and suitable time and venue should be arranged for meaningful consultation at each stage of the project cycle. process. Based on the meaningful consultation, baseline information, mitigation measures to avoid adverse effects and recommendation will be developed required for SIA.

41. The EA should ensure the participation of IPs in project cycle. There should be the clear provision of participation of IPs (percentage among the total participants / beneficiaries) in different stage of project implementation such as labor, general consultation, representation in different activities, amongst other.

42. During the consultation process to prepare this framework, all IPs mentioned that they will help the project implementation process but project should provide proper compensation and support to the IPs who are potentially to be affected by the project.

43. The IPP should include mitigation measures for identified potential negative project impacts. Where there is acquisition of land and/or structures the EA should ensure that the rights of the IPs HHs are not violated, and that they are compensated for the losses in a manner that is culturally acceptable to them. The compensation measures should be as per the Resettlement Framework of this Project.

44. The main components of an IPP includes (i) discussion on aspirations, needs, and preferred options of the affected IPs; (ii) local social organization, cultural beliefs, ancestral territory, and resource use patterns among the affected IPs; (iii) potential positive and negative project impacts on them; (iv) measures to avoid, mitigate, or compensate for the adverse project effects on them; (v) measures to ensure project benefits will accrue to them; (vi) measures to strengthen EA capacity to address their issues; (vii) the possibility of involving local organizations and NGOs with expertise in IPs issues; (viii) their budget allocation; and (ix) IPs monitoring with a time frame. The EA will submit the IPP to ADB for review and approval prior to commencement of any civil works.

5 CONSULTATION, INFORMATION DISCLOSURE AND GRIEVANCES HANDLING

45. ADB is committed to working with EA to put meaningful consultation and participation processes into practice. EA should engage with affected people, and with civil society through information disclosure, consultation, and informed participation.

7

5.1 Consultation

46. The EA/Implementing agency (IA) should undertake meaningful consultation with affected IPs to ensure their informed participation. The meaningful consultation in culturally and gender sensitive manner with and adequate participation of IPs should be ensured in formulation of the project or project component to ensure that it adequately deal with their needs, priorities, and preference. Proper records of consultation should be maintained in IPP. IPs should be provided relevant project information in language(s) and manner suitable to them. Separate focus group discussions needs to be held with IPs groups and their organizations to assess the project impacts and benefits to these groups. Accordingly, the project plans, including IPP, can be prepared in consultation with IPs.

47. Basically there will be three strategies for consultation, i) inform, ii) consult and iii) involve, needs to be adopted. These strategies should be implemented in project area by Consultant's team who will undertake the IPP. The goal of **'Inform'** will be to provide the community with appropriate information on project and project development process. Consultant should have spirit and enthusiasm to keep IPs informed through various means. Different methodology like understanding of how the community prefers to receive information, provision of up-to-date information, use of media and project related publications can be adopted to inform the IPs communities. **The goal of 'Consult' will be to capture community input on project impact to IPs, mitigation measures to minimize project adverse effect and recommendation of IPs communities.** Consultant should have commitment to listen to IPs groups, consider their ideas and concerns and keep them informed. The methodology includes community conversations, HHs surveys, FGD, interviews, observation, consultative workshops, etc. **The goal of 'Involve' will be to work on an ongoing basis with the IPs community to ensure that community ideas, concerns and aspirations are listened to and understood.** The Consultant team should have willingness to work with IPs on an ongoing basis to ensure that IPs ideas, concerns and aspirations are considered to prepare the IPP. The methodology includes consultative groups, working groups, and liaison groups.

5.2 Information Disclosure

48. When the borrower/client and the affected IPs have serious differences and disagreements in relation to the project, its components, or the IPP, the EA/IA will undertake good faith negotiations to resolve such differences and disagreements.

49. Public Information Centers (PIC) will be established in project site to disseminate the required information to APs and key stakeholders, and process about the project in affected VDCs and districts.

50. Information disclosure should be made in a cultural sensitivity manner considering the social culture and diversity among the same cultural groups. Cultural sensitivity manner permits to respond with respect and empathy to people of all nationalities, classes, races, religions, ethnic backgrounds and other groups in a manner that recognizes, affirms, and values their worth. Cultural sensitivity means being aware that cultural differences and similarities exist and have an effect on values, learning, and behavior. Minimum requirements for disclosure of information through culturally sensitive manner are i) treating people as individuals, not as stereotypes; ii) examining one's assumptions about difference; ii) being open to the challenge of learning through others' points of view; iii) building empowered and interdependent relationships with people one regards as different; iv) demonstrating the willingness and ability to adapt in diverse cultural situations.

51. For information disclosure in a cultural sensitivity manner, Consultant's team should have through knowledge, understanding, skills, and protocols to provide services across cultural lines in the best possible way considering the cultures and diversity, and they should have open to the cultural experiences of others and to new information about cultures. Facilitators should have willingness and skills that enables him/her to learn about and get to know people who are different from them, thereby coming to understand how to serve them better within their own communities.

52. The EA shall share the outcomes of SIA, draft IPP, final IPP, revised IPP (in case of technical design change) , and monitoring reports.

53. The project information will be made available to affected IPs as leaflets in Nepali language. The EA shall also post the summaries of approved documents on ADB website. During project implementation, The EA will prepare monitoring reports on the application of the IPP and submit the same to ADB for reviews.

5.3 Grievance Redress Mechanism

54. The EA will establish a grievance redress mechanism (GRM) to receive and facilitate resolution of the affected IPs concerns, complaints, and grievances on compensation, relocation and income rehabilitation issues. It should address concerns and complaints promptly, using an understandable and transparent process that is culturally appropriate, gender responsive, and accessible to the affected IPs at no cost and without retribution. IPs can utilize the country legal system at any stage of the project implementation, and the mechanism should not impede access to the country's judicial or administrative remedies. The affected IPs will be appropriately informed about the mechanism.

55. The GRM will be handled through culturally and gender sensitive manner through keeping confidential the personal and compensation related information. All information will be shared only with concerned person, and no any information will be shared with anyone without the consent of concerned person. Indicators for culturally sensitive manner mentioned in information disclosure section will be applicable for GRM as well. If necessary, provision of use of IPs institution or leadership will be encouraged.

56. The GRM aims to be proactive and accessible to all APs to address their concerns grievances and issues effectively and swiftly. The GRM will operate at three levels with time frames.

5.3.1 First Level of GRM

57. PIC at the VDC level will be the first level of intervention to address grievances and complaints. Many grievances can be resolved by providing correct and complete information. The PIC should have full-time staff representing the EA to listen and provide information to APs and resolve their issues. The officers at PIC may seek the assistance of the supervision consultant (safeguards specialist) to help resolve the issue. The PIC will keep: (i) name of the person (s) , (ii) date complaint was received, (iii) nature of complaint, (iv) location, and (v) how the complaint was resolved. These reports will be submitted to the EA and to its safeguard unit on a monthly basis.

5.3.2 Second Level of GRM

58. Should the grievance remain unresolved the officers at PIC will forward the complaint to the safeguards unit of the EA. The person filing the grievance will be notified that his/her grievance was forwarded to the safeguards unit. Grievances will be resolved through consultation and interaction with APs. The EA should have provisions for answering queries and resolve grievances regarding various issues including social, or livelihood impacts. The EA's social safeguards staff should undertake corrective measures at the field level within 7 days. The safeguards unit staff will fully document the

information like (i) name of the person, (ii) date of complaint received, (iii) nature of complaint, (iv) location, and (v) how the complaint was resolved.

5.3.3 Third Level of GRM

59. If no amicable solution is reached or no response received from the project office, the APs or community can appeal to the Compensation Determination (Fixation) Committee (CDC) which will also function as GRC. There is a clear provision of formation of CDC in Land Acquisition Act **2034**. As a formal body with legal standing, all other relevant complaints/ grievances not resolved at earlier stages, may also be registered with CDC for timely resolution. While lodging the complaint, APs and community must produce documents to support their claim. The CDC will come up with acceptable decision within 15 days of registering the appeal. For revision of compensation cost, Ministry of Home Affairs has only the authority. For other unresolved compensation, social and environmental issues, APs or community can appeal to Ministry of Home Affairs, and decision of Ministry will be the final.

6 INSTITUTIONAL ARRANGEMENT

60. Potential EA could be Department of Electricity Development (DOED) or Nepal Electricity Authority (NEA) for completion of detail project study including IPPF. Detail modality of implementation including transmission line will be spelled out in detail project study report. EA should have competent Environment and Social Safeguard Management Unit (ESMU) having full time, qualified, and competent staff to attend to handle social and environmental safeguard issues of the Project and to ensure that all safeguard plans are diligently implemented.

61. DOED have experiences on construction of reservoir type small hydropower projects but not implemented high dam with large storage capacity so far. Based on preliminary discussion, DOED does not have capacity on SIA, EIA, IPP and involuntary resettlement (IR). However, detail capacity will be assessed during detail study phase. EA/IA needs substantial cultural, social and gender awareness and sensitivity and DOED lacks expertise in these area as well. DOED or NEA have staff with IPs language ability but one person will be proficient in one IP language only.

62. Considering the capacity of DOED or NEA, external consultant should be hired for development and implementation of IPP. While hiring the consultant/IA, there should be the requirement for hiring the IPs in the team so that they can help in IPP development and implementation process. Provision of capacity development of EA could be explored during detail project study period to manage ADB SPS requirements.

7 MONITORING AND REPORTING

63. The EA will monitor and measure the progress of implementation of the IPP. The EA/IA should use dynamic mechanisms, such as inspections and audits, to verify compliance with requirements and progress toward achieving the desired outcomes. The EA/IA will retain qualified and experienced external experts or qualified NGOs to verify monitoring information. The external experts engaged by the EA/IA will advise on compliance issues, and if any significant IPs issues are found, the EA/IA will prepare a corrective action plan, and implement the corrective actions and follow up on these actions to ensure their effectiveness. The external monitor will submit semi annual reports to EA and the EA will be responsible for submitting the reports to ADB.

64. The EA/IA will establish detail implementation and monitoring plan, and establishes management information system (MIS) for rigorous monitoring of project implementation and ensuring fulfillment and implementation of the IPP. Baseline for monitoring will be developed during detail study (SIA). A set of monitoring indicators (specific, measurable and time bound) will be developed based on findings of detail SIA and IPP. Monitoring indicators will be designed to achieve IPP's objectives and desired outcomes in comparison to baseline indicators. In general, result of social impact assessment will be the baseline indicators for monitoring. A guiding monitoring indicators (not exhaustive) are given in Annex 3 and they will be finalized during detail study and IPP period. Result of detail SIA will be used for IPP preparation. The negative and positive impacts of the projects will be clearly mentioned in monitoring indicators. The IPP will also specify how monitoring data will be collected. The EA/IA should prepare periodic monitoring reports as agreed, and submits to ADB for review, and feedback/comment.

65. Participatory monitoring system will also be used with the involvement of IP, IPs institutions, IPs leader and other concerned stakeholders.

8 BUDGET FOR FORMULATING AND IMPLEMENTING

66. The EA will have the primary responsibility for the preparation of the IPP. The EA will also prepare a detailed itemized budget taking into account all the activities associated with the formulation and implementation of the IPP. The IPP will have its own budget and will form an integral part of the overall project cost. The responsibility of financing, implementation and monitoring of the IPP will rest with the EA. A local nongovernment organization (NGO)/agency with the relevant experience will be hired to assist in planning and implementing the IPP. The NGO/agency will be fully oriented on ADB's SPS. Any grievances under IPP will be redressed as per the same procedure prescribed under RF.

67. Human resources (multi sectoral), funds and time resources are required for the preparation of IPP. For one project under the Facility, about five months and about USD 60, 000 will be required to prepare IPP (this is the same cost required for SIA of IPs as mentioned in 4.2). A separate cost will be required for the implementation of IPP. Major budget line will be IPP planning and IPP implementation. In generally, government will be possibilities of provision of counter funds to prepare IPP, but there is no possibility to allocate fund at this point of time. However, detail possibilities could be explored during detail study period.

APPENDIX 1: Outline of an indigenous people plan

This outline is part of the ADB SPS safeguard requirements. An indigenous peoples plan (IPP) is required for all projects with impacts on IPs. Its level of detail and comprehensiveness is commensurate with the significance of potential impacts on IPs. The substantive aspects of this outline for preparation of an IPP.

A. Executive Summary of the Indigenous Peoples Plan

This section concisely describes the critical facts, significant findings, and recommended actions.

B. Description of the Project

This section provides a general description of the project; discusses project components and activities that may bring impacts on IPs; and identify project area.

C. Social Impact Assessment

This section includes:

- (i) reviews the legal and institutional framework applicable to IPs in project context,
- (ii) provides baseline information on the demographic, social, cultural, and political characteristics of the affected IPs communities; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend,
- (iii) identifies key project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with IPs at each stage of project preparation and implementation, taking the review and baseline information into account,
- (iv) assesses, based on meaningful consultation with the affected IPs communities, and the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected IPs communities given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live,
- (v) includes a gender-sensitive assessment of the affected IPs perceptions about the project and its impact on their social, economic, and cultural status,
- (vi) identifies and recommends, based on meaningful consultation with the affected IPs communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that IPs receive culturally appropriate benefits under the project.

D. Information Disclosure, Consultation and Participation

This section includes:

- (i) describes the information disclosure, consultation and participation process with the affected IPs communities that can be carried out during project preparation,
- (ii) summarizes their comments on the results of the social impact assessment and identifies concerns raised during consultation and how these have been addressed in project design,
- (iii) in the case of project activities requiring broad community support, documents the process and outcome of consultations with affected IPs communities and any agreement resulting from such consultations for the project activities and safeguard measures addressing the impacts of such activities,
- (iv) describes consultation and participation mechanisms to be used during implementation to ensure IPs participation during implementation, and
- (v) confirms disclosure of the draft and final to the affected IPs communities.

E. Beneficial Measures

This section specifies the measures to ensure that IPs receives social and economic benefits that are culturally appropriate, and gender responsive.

F. Mitigation Measures

This section specifies the measures to avoid adverse impacts on IPs; and where the avoidance is impossible, specifies the measures to minimize, mitigate and compensate for identified unavoidable adverse impacts for each affected IPs groups.

G. Capacity Development

This section provides measures to strengthen the social, legal, and technical capabilities of (a) government institutions to address IPs issues in the project area; and (b) IPs organizations in the project area to enable them to represent the affected IPs more effectively.

H. Grievance Redress Mechanism

This section describes the procedures to redress grievances by affected IPs communities. It also explains how the procedures are accessible to IPs and culturally appropriate and gender sensitive.

The EA will submit the IPP to ADB for review and approval prior to the selection of specific subprojects. The IPP policy and measures must comply with ADB's SPS.

I. Monitoring, Reporting and Evaluation

This section describes the mechanisms and benchmarks appropriate to the project for monitoring, and evaluating the implementation of the IPP. It also specifies arrangements for participation of affected IPs in the preparation and validation of monitoring, and evaluation reports.

J. Institutional Arrangement

This section describes institutional arrangement responsibilities and mechanisms for carrying out the various measures of the IPP. It also describes the process of including relevant local organizations and/or NGOs in carrying out the measures of the IPP.

K. Budget and Financing

Provides an itemized budget for all activities described in the IPP.

APPENDIX 2: Indicative checklist (not exhaustive) for social impact assessment

General list of information (not exhaustive) to be collected in SIA is given below for quick reference for designing the study methodology.

1. Baseline demographic data (disaggregated information) on:

- sex,
- population of different age group,
- caste/ethnic groups,
- vulnerable groups,
- disability,
- socially excluded groups, etc

2. Baseline socioeconomic information on:

- Source of income,
- Means of livelihoods,
- Assess/estimate the areas of cultivated and grazing lands used by IPs with annual agricultural outputs and value of production
- Types of land, irrigation facility, ownership of land, etc.,
- Livestock, small cattle and poultry information,
- Employment information including foreign employment,
- Situation of remittances,
- Knowledge and skills level for farming, income generation, enterprises, etc
- Food security situation and coping mechanism of food insecurity,
- Food habit,
- Annual income and expenditures,
- Household assets like radio, TV, etc.,
- Literacy level,
- Housing structures,
- Source of lighting and fuel,
- Assessment of IPs access to and opportunities they can avail of the basic services like health, water, etc. and socio-economic services,
- Information of economic infrastructures,
- Health situation including major epidemics, disease trend, nutritional situation of under five year children and lactating mothers,
- Situation of social safety net,
- Gender and social inclusion situation,
- Situation of climate change and disaster and mitigation measures and practices, etc.

3. Existing political profile of IPs:

- Membership in NGO/CBOs like mother groups, community forestry groups, saving and credit groups, Cooperative, etc.,
- What is the composition in EXCOM? (male, female, poor, etc) ?
- Registration situation of NGOs/CBOs in which they have membership,
- Peoples participation,
- Types of project implementation by NGOs/CBOs and source of funding,
- Partnership with external organizations,

- Capacity of institutional development including funding, leadership, project management, community mobilization, etc
 - What types of activities they are doing?
 - What are the measures for strengthening community structures?
- 4. Assessment of cultural information covering:**
- Major cultures of the IPs groups,
 - Impact of the project on IPs social system, cultures and traditions,
 - Mitigation measures for negative impact on cultures and social systems, etc.
- 5. Assessment of land and territories that IPs have traditionally owned or occupied:**
- Land size of the IPs groups,
 - Cost of land,
 - Squatter and tenant IPs group wise population,
 - Project impact on land and territories of IPs groups, etc.
- 6. Assessment of natural resources on which IPs depend:**
- Assess the types and area/volume of natural resources used by IPs groups,
 - Assess the area/volume of the natural resources where access will be denied by IPs,
 - Mitigation measures for impact on natural resources, etc.
- 7. Assessment of the project's impacts on IPs group's social, cultural and economic status:**
- Assessment of the short and long term impact,
 - Assessment of direct and indirect impact, and
 - Assessment of positive and negative impacts.
- 8. Assessment and validation of which IPs groups will trigger the IP policy principles**
- List of IPs groups affected by project,
 - Assessment of degree of impact to each IPs groups, etc
- 9. Assess the history of the relationships of IPs with the neighboring cultures (of the area of possible relocation/resettlement), and analysis the understanding of the conflicts of the cultures with neighbouring cultures:**
- How is the status of indigenous people in the community?
 - How is the relation of IPs culture with other neighboring cultures in potential area of relocation/resettlement?
 - Did any IPs were relocated/resettlement due to conflict with other ethnic groups? If so what was the reason and where did they went?
 - What is the feeling of indigenous people on their situation, status, etc.?
 - How is the situation of relationship, social harmony in community from culture, caste/ethnicity, etc, aspects?
- 10. Assess/estimate the Socio-cultural norms regarding the gender division of labour, rights, and responsibilities, access to and control over resources:**

- Difference between men and women on labour/employment and wage rate? Describe
- How many HHs have land and other property in the name of women?
Situation of access to and control over resources
- Difference in different caste/ethnic groups in decisions making process, and access to and control over resources?

APPENDIX 3: Monitoring indicators

General list of monitoring indicators (not exhaustive) are as given as under.

1. Amount of annual income and expenditures (increased, constant or decreased),
2. Means of livelihoods (diversified, increased, constant or decreased),
3. Quality and quantity of farming land after resettlement/relocation
4. Change in productive skills (farm and off farm) after compensation and economic development interventions,
5. Food security situation (increased or constant or decreased),
6. Food insecurity coping mechanism (negative or positive),
7. Situation of household assets like radio, TV, etc.,
8. Housing structures,
9. Source of lighting and fuel,
10. IPs access to and opportunities of basic services like health, water, etc. and socio-economic services and infrastructures,
11. Situation of social safety net,
12. Gender and social inclusion situation,
13. Status of membership of IPs in NGO/CBOs,
14. Level of IPs participation in productive and social functions in decision making process and control over resources,
15. Capacity in institutional development and leadership,
16. Status of IPs cultures, identity, safety net system,
17. Number of squatter and tenant IPs,
18. Situation of IPs access to natural resources,
19. Social status of IPs in new context or feeling of IPs on their social status,
20. Relation of IPs culture with neighboring cultures,
21. Situation of gender role and status,
22. Women ownership on HHs property and assets,
23. Situation of women access to and control over resources, etc.