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Évènements en 2021

Indigenous women

Indigenous women in Nepal are relatively empowered in the private sphere but less so in the public sphere. In contrast, Hindu women belonging to the dominant caste group are dominated by their male counterparts at the family level but are relatively strong in the public sphere. Indigenous women, whose families are not much influenced by the dominant Hindu values, make decisions, engage in economic activities, and have mobility. They are the guardians of biodiversity, mother tongues, traditional dresses, customary knowledge, skills and technology. In the public sphere, Indigenous women are barely represented in executive positions within political parties (e.g. in the central committee, only 2 of the 80 members in the Nepali Congress are Indigenous women, and 11 of the 202 members in the Communist Party of Nepal (Unified Marxist–Leninist), abbreviated CPN (UML) are Indigenous women);⁵ of the total of 82,778 people working in the civil service only 3,619 (4.38%) are Indigenous women⁶ and if, somehow, a few are represented then they have no role in decision-making as they have been co-opted by the main political parties.

Indigenous women do not hold decision-making positions, not even in the “mainstream” women's movement. The handful of Indigenous women who are represented in village or local government or in provincial and federal or national bodies and international processes have to speak the language of the dominant caste group and are prohibited from raising Indigenous Peoples' issues because they have to be loyal to their party policy, which is against Indigenous Peoples. In the Indigenous Peoples' movement, Indigenous men dominate and Indigenous women are side-lined. Indigenous women are therefore excluded from the government, political parties, non-governmental organizations, the women's movement, and the Indigenous Peoples' movement.

The main reasons for such exclusion are a colonial mindset and behaviour towards Indigenous Peoples by the colonizing Bahun-Chhetri caste groups, Hindu patriarchy and Brahmanism. In addition, those Indigenous men who are close to the Bahun-Chhetri rulers, and those who are socialized into or have adopted Hindu patriarchal values, Brahmanization, and Hinduization, also exclude Indigenous women. Loss of collective ownership and control over ancestral lands, territories and resources has resulted in poverty, unemployment and displacement and these are also factors that exclude Indigenous women from the public sphere, especially from leadership and decision-making positions. It is against this backdrop that the National Indigenous Women's Federation (NIWF), an umbrella organization of 43 of the 59 Indigenous Peoples formally recognized by the government, has been fighting since its establishment in 1999.

The current situation of Indigenous women in Nepal is that “Indigenous women suffer multiple discriminations based on their racial/ caste/ethnic, gender identity and

disability”; and are “disproportionately excluded from social services provided by the State”.⁷ Further, with regard to their differences from other women in general, “mainstream” women are recognized as a legal entity under the constitution, laws and policies; in contrast, Indigenous women are not recognized and “are invisible and are victims of historical injustice and structural violence; in contrast, ‘mainstream’ women, who belong to the ruling Hindu caste and dominant group, are visible.”⁸ In brief, “Indigenous women are victims of triple discrimination:

(a) stateless and colonization due to denial of right to self-determination, (b) dispossession of lands, territories and resources, and (c) loss of identity due to state-led process of assimilation”, and a patriarchy sponsored by the state and assimilated by some Indigenous men.⁹

Hence, Indigenous women “continue to be one of the most marginalized groups in society who are rendered vulnerable by the lack of our political voice and lack of attention to our specific needs and rights- which are causes and consequences of each other.”¹⁰

According to a CEDAW shadow report, “seven girls, out of every ten victims of trafficking in person, are from Indigenous Peoples. 60 percent of the rescued were from Indigenous Peoples.” Concerning Indigenous women with disabilities (IWWD) experiencing violence and harmful practices, the shadow report states, “the discrimination that IWWDs face are subtle and invisible. We are exposed to the violent and harmful practices, such as, rape, forced sterilization and neglect.”¹¹ Although data on Indigenous women forcibly evicted by development aggression, including hydropower, highways, road expansion, national parks and other conservation areas, are not available, these evictions are multiplying exponentially.

There are no reprisal mechanisms (access to justice) or assistance to Indigenous and non-indigenous women survivors of violence in Nepal. Drawing inspiration from IWGIA's annual edition of *The Indigenous World*, the National Indigenous Women's Federation (NIWF) started documenting the situation of Indigenous women in Nepal. In its first volume, 31 of the 43 Indigenous women organization members provided information covering the period of September 2015 to December 2019.¹² This clearly shows that Nepal has not implemented any of the recommendations made by the CEDAW, nor those of the Committee on the Rights of Persons with Disabilities (CRPD). No Free, Prior and Informed Consent has ever been obtained by the government or private business companies from Indigenous Peoples, including Indigenous women. Land grabbing by the government continues unabated. The NIWF's field research report on Indigenous Women's Land Rights in the Community Forests concludes,

“Nepal government's laws, policies and practices related to CFs and its management through Community Forest User Groups are highly problematic for enjoyment of human rights by Indigenous Peoples, specially Indigenous Women”;

“existing laws, policies and practices violate rights to collective way of life, self-determination, autonomy, customary self-government systems, FPIC, Indigenous knowledge, skills, technology and practices, and direct participation at all levels of decision making.”¹³

It recommends to the government that: “Community Forest User Groups (and also Collaborative Forest Management) should be scrapped, and ownership and control over and access to and management of lands, territories and resources, including community and collaborative forests given to Indigenous Peoples who are its right holders.”¹⁴

The 5th National Human Rights Action Plan

The Human Rights and International Treaty Agreement Division of the Office of the Prime Minister and Council of Ministers released the 5th National Human Rights Action Plan (FY 2021/22-2024/25) on 2 December 2021.¹⁵ Activities aimed at assisting Indigenous Nationalities relate to their protection, empowerment and development. The plan states two objectives and four activities to be accomplished within three years.

The first objective is to review, reform and implement existing laws protecting and promoting the rights of Indigenous Peoples. This will be achieved by the Ministry of Federal Affairs and General Administration and local bodies carrying out two activities with assistance from the Ministry of Law, Justice and Parliamentary Affairs, the Indigenous Nationalities Commission, the National Foundation for Development of Indigenous Nationalities, the Provincial Internal Affairs and Law Ministry, the Provincial Social Development Ministry and civil society. The activities are to review or reform existing laws, draft new laws as needed relating to Indigenous Nationalities, and to implement conventions to which Nepal is a party when they protect the rights of Indigenous Nationalities.

The second objective, to protect the history, language, script, culture, heritage, music, historical and religious sites of Indigenous Nationalities, will be achieved through two activities. These are to establish and expand museums of Indigenous Nationalities, and to provide soft loans to promote businesses that use the traditional technology, skills and crafts of Indigenous Nationalities. If the government sincerely implements these plans then Indigenous Peoples could enjoy collective rights, especially self-determination, autonomy and lands rights, and it would help stop genocide, including cultural genocide, and other gross human rights violations and, ultimately, prevent future violent conflicts and internal wars.

Community-led steps towards achieving self-determination initiated

Bottom-up steps towards achieving self-determination with autonomy and self-rule in a meaningful way have been initiated at the community level.

These are as follows:

Formal recognition of customary self-government system

Barbardiya Municipality has made an historic decision by formally recognizing Barghar, the customary self-government system of the Tharu.

The municipality published “*Working guidelines for the management of Barghar custom in Thakurbaba Municipality, 2021*” in the Local Gazette of Thakurbaba Municipality on 20 July.

It listed the customary process of *Jutyala (KhojniBojni)* (“Assemble (SearchKnow)”) and customary self-selection of its customary leaders, including its :

- chief *Bad-kaBargharya*,
- assistant *Bargahr* (the Chief),
- *Likhandara* (Documentation official), -
- Guruba (spiritual leader),
- *Kesuaka* (assistant of the spiritual leader),
- *Chirakya* (helper to the spiritual leader),
- *Chaukidar* (security guard),

and household representatives together with their roles and responsibilities, rights and duties.

Barbardiya Municipality has shown the way and it should be expected that other rural municipalities, and the Metropolitan City, will follow suit and provide legal recognition to the customary self-government systems of the Indigenous Peoples. It is of immense significance that Indigenous Peoples' customary self-government systems are made visible to non-indigenous people and to the government both at the federal and provincial levels.

Declaration of cultural autonomy Kirtipur Municipality has enacted the Act for Management of the Kirtipur City Cultural Protected Area, 2021, which was published on 7 July in the Local Gazette.¹⁶ According to its preamble, the law is based on ILO Convention No. 169, the UNDRIP and the constitutional and legal rights of the local government, as well as the community members' aspirations for protection of their cultural heritage, *Guthi* (customary self-government system), *Nepal Bhasa* mother tongue, ancient old settlements, and lands relating to culture, and development of cultural life. The law has recognized five cultural protection area sub-councils to discuss, study, research, collect data, coordinate and make recommendations to the council. It is their strategic move towards realizing Newa autonomous state that was declared in 2009¹⁷ and, ultimately, Newa territorial autonomous state.

Bottom-up land rights movements

In 2021, the Yakthung (Limbu) Indigenous Peoples organized a two-day conference and meeting of 320 representatives from the 115 *Sayang* (clans) at Chakalitar in Terhathum in the eastern Hills, the historic place where their elders met 43 years ago to protest at the land grabbing by the government of the time without their consent.¹⁸ The conference agreed that the Yakthung nation and Gorkhali state had a treaty to respect their autonomy and self-rule with continuation of their collective ways of life and full control over their lands, territories and resources from generation to generation, and that they had permanent sovereignty thereof. They agreed, most importantly, to collect further evidence of their land rights and file a case at the international court for restitution of their lands, territories and resources, and to begin a community level land rights movement by documenting changes made to the original names of places, rivers, mountains, cultural heritage, sacred graveyards, etc., and reclaiming them. They also agreed to revive their customary self-government systems and institutions.

European Investment Bank (EIB) on Free, Prior and Informed Consent (FPIC) and other Indigenous Peoples' rights in its development loans and assistance

The EIB made its conclusion report public on 16 March 2021.¹⁹ In a press release of 23 March entitled "Nepal Indigenous communities vindicated in rare European human

rights victory”,²⁰ the FPIC & Rights Forum, LA- HURNIP, and Accountability Counsel stated that: “Indigenous Peoples and local communities in Nepal are celebrating a hard-fought victory following a landmark investigation²¹ [...], which found that the European Investment Bank (EIB) must take urgent steps to uphold their right to Free, Prior, and Informed Consent (FPIC) in its funding of the hydro- power sector.” *It further stated that: “The EIB Complaints Mechanism has recommended that ‘major lenders and development partners in the energy sector coordinate efforts and – with the help of experts – work closely [...] to develop a tailor-made approach for meeting FPIC requirements in energy projects in Nepal.”*

The Indigenous Peoples affected take it as a positive sign but no adequate steps have been taken by the international investors or the government to obtain their FPIC. They are highly appreciative of the support they have received from IWGIA, AIPP, the Accountability Counsel and LAHURNIP in these efforts.

World Bank considering a case regarding the Nepal-India electricity transmission and trade project and its additional financing

The Inspection Panel of the World Bank received a letter on 17 November 2021 signed by 51 community members designating an advocate from the LAHURNIP to represent them. The Panel registered the Request on 30 November 2021. The Bank’s management must respond to the Panel by 14 January 2022 and will then “make a recommendation to the Board of Executive Directors on whether the matter should be investigated”.²² Both the affected Indigenous Peoples and LAHURNIP expect the Panel to recommend that the Nepalese government obtain Indigenous Peoples’ FPIC and comply with their rights in line with the UNDRIP and ILO Convention No. 169.

Majhi protest against the Sunkoshi-2 Hydropower Project

Indigenous Majhi communities from Ramechhap and Sindhuli districts have demanded the cancellation of Sunkoshi-2 Hydropower Project because their right to Free, Prior and Informed Consent (FPIC) has been violated, and because the project stands in the way of the creation of an autonomous Majhi protected region. *“The Project will reportedly cause inundation up to at least 53 kms from the dam in an area of 4,500 hectares, submerge majority of settlements along the banks of Sunkoshi and Tamakoshi rivers in the two districts, and displace around 6,000 households and impact 400,000 people.”²³*

The Joint Struggle Committee, representing Majhis from various villages of Ramechhap and Sindhuli districts, organized a protest rally on 30 September in Munthali, Ramechhap. The government had arranged a public hearing on the environmental impact assessment in Munthali for 1 August but it was cancelled after a huge protest organized by the affected Majhi community.

“Violations in the Name of Conservation”

Amnesty International (AI) and the Community Self Reliance Centre (CSRC) jointly published a research report entitled ‘Violations in the Name of Conservation: “What Crime Had I Committed by Putting My Feet on the Land that I Own?”’ on 21 August.²⁴ AI and the CSRC debunk the myth of Nepal’s international fame for its “success story” in protecting the wildlife and natural environment for decades. They made it clear with

evidence collected from the Indigenous communities affected by the Chitwan National Park (CNP) and Bardiya National Park (BNP) that such success has only been possible at the cost of violating the human rights of forest-dependent Indigenous Peoples. The report documents human rights violations that include: “forced evictions; denial of rights to their ancestral lands; unjustified restrictions on the access to the forests and natural resources on which they traditionally rely, amounting to denial of access to food; arbitrary arrests, unlawful killings, detention and torture or other ill-treatment by the Nepal Army and the National Park personnel protecting the conservation areas, and the state’s failure to provide effective remedies to the Indigenous peoples for the many rights violations against them.”²⁵

Congressional hearing

In a written testimony during the US Congressional Hearing on 26 October for the House Committee on Natural Resources Subcommittee on Water, Oceans and Wildlife of the US House of Representatives, Ginette Hemley, Senior Vice-President of Wildlife Conservation World Wildlife Fund - US said:

*WWF’s recent actions in Nepal also demonstrate its determination to leverage its influence with governments to achieve better human rights outcomes. In response to media reports in July 2020 of incidents involving alleged abuses of Chepang Indigenous People by government personnel in the area of Nepal’s Chitwan National Park area, WWF-Nepal (which is overseen by WWF-US) immediately urged senior government officials to investigate. ...WWF-Nepal placed a hold on funding for conservation law enforcement support activities across Chitwan National Park pending evidence of substantial progress in the government investigation. Since then, the Department of Parks and Nepal Army have transferred or suspended the duties of implicated personnel while investigations have been underway.*²⁶

Nepal at COP 26

In a statement at COP 26 in Glasgow, the Prime Minister of Nepal said, “We are engaging with all stakeholders including private sector, indigenous people, disadvantaged communities, women and youth in all our climate actions.”²⁷ Indigenous experts and activists, however, do not expect Indigenous Peoples to gain any benefit or climate justice from any of the climate actions planned and implemented by the government unless they obtain Indigenous Peoples’ FPIC and their meaningful participation and representation at all levels of decision-making, in line with the UNDRIP and ILO Convention No. 169.

Notes and references

1. The Central Bureau of Statistics (CBS) of Nepal makes population projections every day. The projected population on 15 January 2020 was 30,212,287. <https://cbs.gov.np/>
2. Hindu cosmology divides the population into hereditary caste groups ranked according to ritual purity and impurity. The Dalit castes form the lowest tier of the caste system and are highly marginalized to this day. (Ed. note)
3. According to the constitution, Bahun, Chetri, Thakuri, Sanyasi and Dasnami caste groups belong to the Khas Arya caste group.
4. 61 Indigenous Peoples were initially officially recognized in Nepal through ordinance *Rastriya Janajati Bikas Samiti (Gathan Adesh) 2054*. Indigenous Peoples have been officially and legally recognized by the government since 2002 (2059 B.S.) through the *National Foundation for the Development of Indigenous Nationalities Act* (known as the NFDIN Act), which lists 59 distinct Indigenous communities in the country. Of the initial 61 IPs listed, Manange was dropped, Thinatan, Syangtan and Chitan were merged as Tin Gaunle Thakali and Yakkha was added making it a list of 59 IPs.
5. Women’s Resource Network (Bangladesh); The Center for Indigenous People’s Research and Development, National Indigenous Women’s Federation and National Indigenous Women Forum (Nepal); Alma Grace Barla, Monjib Mochahari and Dr. Khumtiya Debbarma (India) UNHEARD AND UNSEEN: Indigenous Women’s Path to Empowerment and Sustainable Development—

- Bangladesh, India and Nepal (Volume 1), Baguio City, Philippines: Tebtebba Foundation, 2021, 56 (Table 11). <https://www.tebtebba.org/index.php/resources-menu/publications-menu/books/148-unheard-and-unseen-indigenous-women-s-path-to-empowerment-and-sustainable-development-volume-1>
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 7. "Committee on the Elimination of Discrimination Against Women (CEDAW), 71st Session, 22 October–9 November 2018. SITUATION OF THE RIGHTS OF INDIGENOUS WOMEN IN NEPAL. Shadow Report for the Sixth Periodic Report of Nepal CEDAW/c/NPL/6. Submitted by National Indigenous Women's Federation (NIWF), National Indigenous Women Forum (NIWF), National Indigenous Disabled Women Association Nepal (NIDWAN), Indigenous Women's Legal Awareness Group (INWOLAG)." See page 1. https://www.madre.org/sites/default/files/Final%20Submitted_Revised-CEDAW%20Shadow%20Report%20on%20Situation%20of%20the%20Rights%20of%20Indigenous%20Women%20in%20Nepal%20submitted%20by%20NIWF-NIWF-NIDWAN-I- NWOLAG%20%284%29.pdf
 8. Ibid.
 9. Ibid.
 10. Ibid.
 11. Ibid. See page 2.
 12. International Indigenous Women's Forum (IIWF) and National Indigenous Women's Federation (NIWF). The Situation of Indigenous Women in Nepal (September 2015 to December 2019). http://niwf.org.np/wp-content/uploads/2022/01/22_IPs-Women-in-Nepal-Edited-2021-LastGG.pdf
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 14. Ibid. See page 43.
 15. *Nepal Sarkar n.d. Manab Adhikar Sambandhi Panchau Rastriya Karyayojana (Aa.Ba. 2077/78-2081/82. Nepal Sarkar. Pradhanmantri tatha Mantripatishadko Karyalaya. Singhadarbar, Kathmandu: Pradhanmantri tatha Mantriparishadko Karyalaya.* ["Nepal Government n.d. "5th National Human Rights Action Plan (FY 2021/22-2024/25)". Singhadarbar, Kathmandu: The Human Rights and International Treaty Agreement Division of the Office of the Prime Minister and Council of Ministers. (Text in Khas Nepali language)] See page 40. [https://](https://kirtipur.nagarpalika.gov.np/sites/kirtipurmun.gov.np/files/2022/01/22_IPs-Women-in-Nepal-Edited-2021-LastGG.pdf)
 16. *Kirtipur Nagarpalika 2021. Sambat 2078 Salko Ain no. 3. Kirtipur nagar sanskritik Samrachhit Chetra Sambandhama Byabastha Garna Baneko Ain, 2078. Sthaniya Rajpatra. Khanda 1. Sankhya 3. Asar 23, 2078: Kirtipur: Kirtipur Nagarpalika* ["Kirtipur Municipality 2021. Law no. 3 of 2022 AD. Act for Management of the Kirtipur City Cultural Protected Area, 2021. Local Gazette. Part 1. No. 3. June 17, 2021. Kirtipur: Kirtipur Municipality". (Text in Khas Nepali language)] https://kirtipurmun.gov.np/sites/kirtipurmun.gov.np/files/2022/01/22_IPs-Women-in-Nepal-Edited-2021-LastGG.pdf THT Online. "Newars announce autonomous state." The Himalayan Times, December 26, 2009. <https://thehimalayantimes.com/kathmandu/newars-announce-autonomous-state>
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