

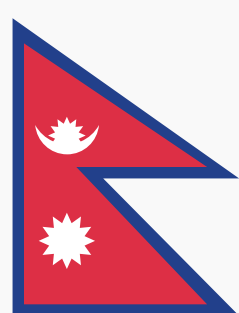
BASE-LINE FACTSHEETS ON THE SITUATION OF INDIGENOUS PEOPLES OF NEPAL

INTRODUCTION

Navigator Project



The project "Implementation of Making the SDGs Work for Indigenous Peoples under the Indigenous Navigator Initiative in Nepal" is intended to monitor the implementation of the SDGs at the national level and support the prioritized/selected IPs to enhance their capacity to claim their rights at the local level under the 17 SDGs .



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

NATIONAL COORDINATION GROUP AND NATIONAL EXPERT COMMITTEE ALSO FORMED TO SUPPORT IMPLEMENTATION OF THE PROJECT.

Implemented at 11 countries including Nepal



OVERVIEW OF THE INDIGENOUS POPULATION

Social Composition of Nepali Population

ACCORDING TO 2011 CENSUS:

26,494,504

36% ARE INDIGENOUS PEOPLES.

125
CASTE/
ETHNIC
GROUPS

123 SPEECH
COMMUNITIES

STATUS

59 INDIGENOUS PEOPLES/NATIONALITIES RECOGNIZED BY NATIONAL FOUNDATION FOR DEVELOPMENT OF INDIGENOUS NATIONALITIES ACT, 2002, OF WHICH 11 GROUPS HAVE NOT BEEN NOT REPORTED IN CENSUS 2011.

National Foundation for Development of Indigenous Nationalities has classified indigenous peoples into categories on the basis of their socio-economic status:

- 10 GROUPS AS ENDANGERED
- 12 GROUPS AS HIGHLY MARGINALIZED
- 20 GROUPS AS MARGINALIZED
- 15 GROUPS AS DISADVANTAGED
- 2 GROUPS AS ADVANCED

Caste/Ethnic Group	Population	%
Hill Bahun/Chhetris	8,278,401	31.25
Hill Bahuns	3,226,903	12.18
Hill Chhetris	5,051,498	19.07
Dalits	3,604,948	14
Tarai Castes (34+ groups)	3,903,572	15
Indigenous Peoples (IPs)	9,487,642	36
Mountain and Hill IPs	7,211,178	27.22
Magar	1,887,733	7.12
Tamang	1,539,830	5.81
Newar (Urban IP)	1,321,933	4.99
Rai	620,004	2.34
Gurung	522,641	1.97
Limbu	387,300	1.46
Other marginalised hill IPs (45 groups)	931,737	3.53
Tarai IPs	2,276,464	8.59
Tharu	1,737,470	6.56
Other Tarai IPs(12 groups)	538,994	2.03
Others (Muslims, Sikhs+)	1,219,941	4.6
Total	26,494,504	100

Source: CBS, 2012 (Census 2011)

55 INDIGENOUS GROUPS ARE LISTED AS MINORITIES AMONG THE LIST OF 98 MINORITIES, HAVING POPULATION LESS THAN 0.5% EACH FOR THE REPRESENTATION IN LOCAL LEVELS UNDER SPECIAL QUOTA SYSTEM IN APRIL 2017. THEY TOGETHER FORM 13.17 PERCENT OF THE INDIGENOUS POPULATION.

LIST OF THE RECOGNIZED INDIGENOUS NATIONALITIES AS CATEGORIZED BY NEPAL FEDERATION OF INDIGENOUS NATIONALITIES



1. Endangered

Kusunda, Bankariya, Raute, Surel, Hayu, Raji, Kisan, Lepcha, Meche, and Kusbadiya

2. Highly marginalised

Majhi, Siyar, Lohmi, Thudam, Dhanuk, Chepang, Satar (Santhal), Jhagad, Thami, Bote, Danuwar, and Baramu

3. Marginalised

Sunuwar, Tharu, Tamang, Bhujel, Kumal, Rajbansi, Gangai, Dhimal, Bhote, Darai, Tajpuriya, Pahari, Topkegola, Dolpo, Free, Mugal, Larke, Lohpa, Dura, and Walung

4. Disadvantaged

Chhairotan, Tangbe, Tinganule Thakali, Bargaule, Marphali Thakali, Gurung, Magar, Rai, Limbu, Sherpa, Yakkha, Chhantyal, Jirel, Byansi, and Yolmo

5. Advanced

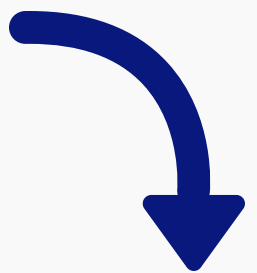
Newar and Thakali.



SOCIO-ECONOMIC SITUATION

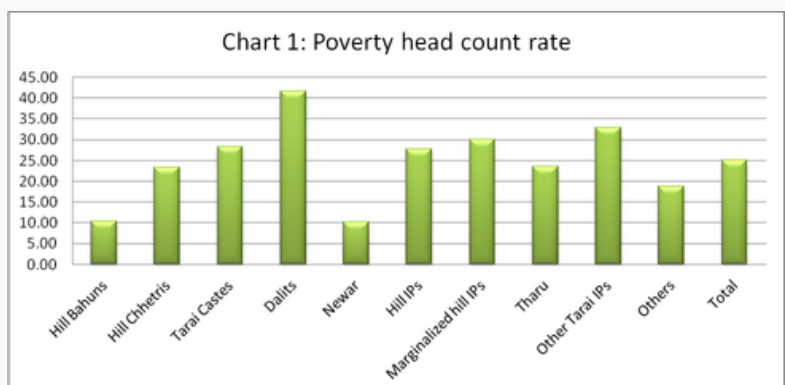
socio-economic analysis groups:

1. Newar (urban IPs)
2. Hill IPs
3. Marginalised hill IPs (3.5%)
4. Tharu
5. other Tarai IPs (2%)



Poverty

The national poverty headcount rate for all Nepali population has been estimated to be around **25%** in 2010/11.

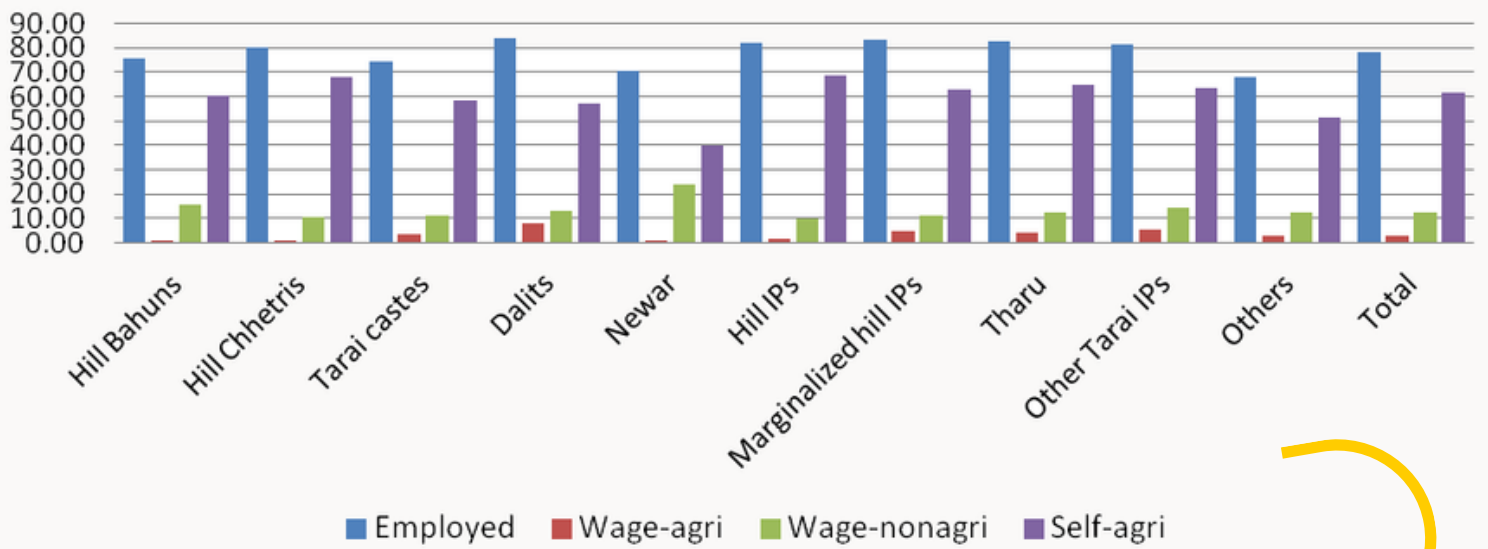


33% of Tarai IPs and **30%** of hill marginalized IPS are living below the national poverty line, slightly better off than Dalits, whereas they are far poorer than Hill Brahmin and Newar (urban IP) whose such poverty rates are **10.3%** and **10.2%** respectively.

Livelihoods and employment



Chart 2: Distribution of employed population by caste/ethnicity (in %)



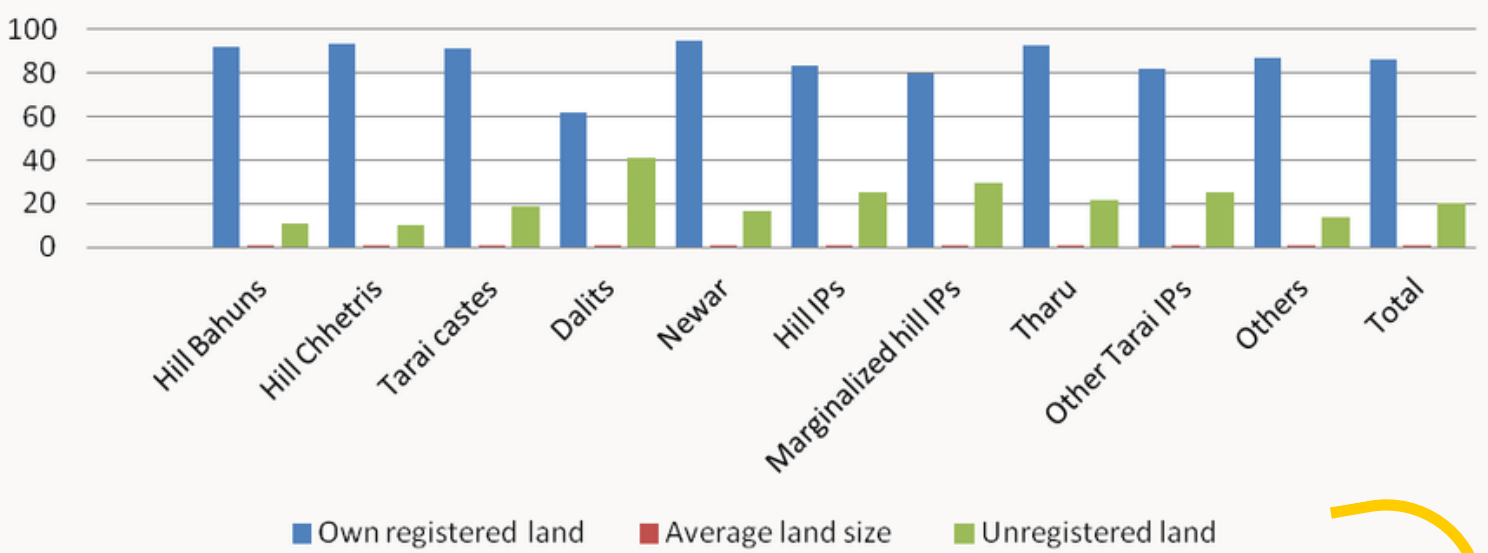
- **83%** of the marginalized hill IPs, **82%** of other hill IPs, **82.5%** of Tharus and **81.4 %** of other Tarai IPs are employed.
- Among employed, **63% to 68%** hill IPs and **64%** of Tarai IPs were employed in self-agriculture.
- Some **10-11%** hill IPs and **12.6% to 14.5%** Tarai IPs are employed in wage works in non-agricultural fields compared to **23.6%** Newar (urban IP) and **15.5%** hill Brahmin in such employment as paid works in non-agriculture are limited to them.



Access to Land



Chart 3: Percentage distribution households with landholding by caste/ethnicity (in hectare)

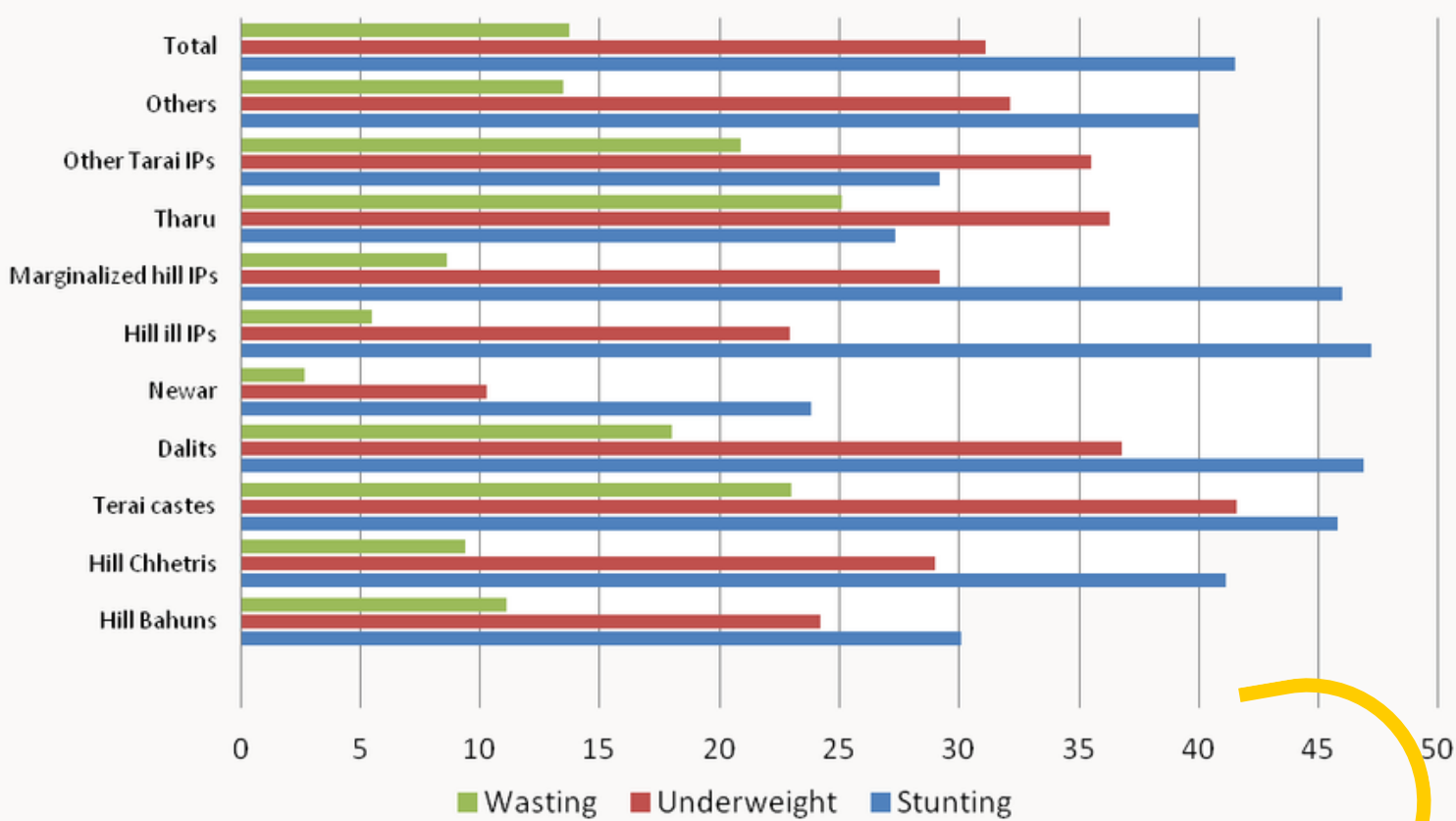


About 80 % marginalized hill IPs have lands of average 0.4166 hectares per household registered in their names, **but 29.5 % marginalized hill IPs, 25 % hill IPs other than Newar and another 25 % of Tarai IPs other than Tharu possess lands not yet registered in their names** (title to the lands not legitimated). Some **38 % Tharu and 28 % tarai IPs other than Tharu cultivate lands of others.**

Hunger and Malnutrition



Chart 4: Prevalence of underweight, stunted and wasted children under five by caste/ethnicity (in %)



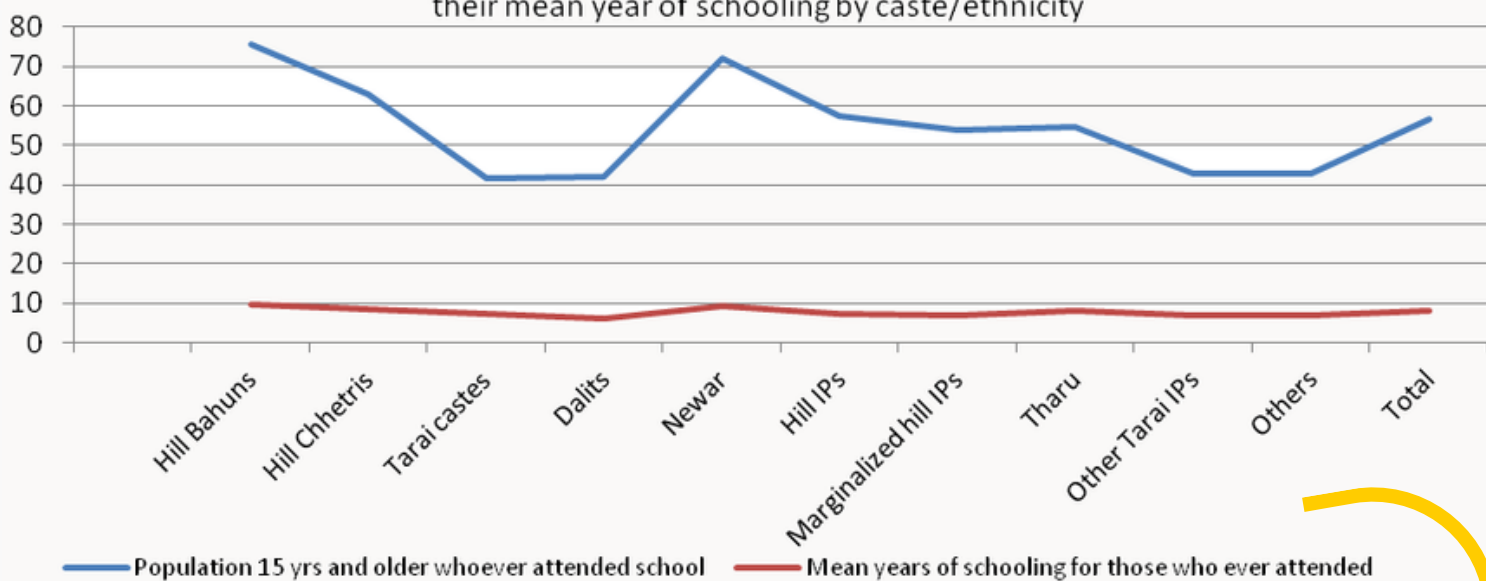
The prevalence of underweight children aged 6-59 months among Tharu and marginalized hill IPs is 36 % and 29 % respectively, highest prevalence rate closer to Dalits. Marginalized hill IPs and other hill IPs have 46 % and 47 % stunting (low height for age) children under five years of age, the highest proportions. Tharu and other Tarai IPs have 25 % and 21 % respectively wasted (low weight for height) children under five years, highest prevalence rates among groups examined.



Education



Chart 5: Percentage of population 15 years and older whoever attended school in their mean year of schooling by caste/ethnicity



In the 15 years and older population only 43 % of Tarai IPs other than Tharus and 54 % of hill marginalized IPs were literate and the mean years of schooling of 15 years and older hill IPs other than Newar and Tarai IPs other than Tharu who ever attended school was close to 7 years compared to 9.9 years of hill Brahmin. The gross enrollment rate of Tarai IPs other than Tharu in higher secondary education was 45.8 % only and that of hill indigenous peoples other than Newar at this level was 58.7 % to 62.9 % slightly better than those of Dalits. In the tertiary level, the gross enrollment rate of IPs students of different categories ranged from 5.6 % to 8.8 % compared to 49 % of hill Brahmin and 40 % of Newar (urban IP) which has demonstrated huge disparities in tertiary education. Gender disparities in the enrollment at tertiary level is also stark.

Health



About **24 %** hill IPs have access to public hospital/ Primary Health Centre (PHC) within 30 minutes. Among people suffering from chronic illnesses, **55 %** IPs suffer from cancer and **37 %** of them suffer from kidney/liver diseases. (Source: LAHURNIP, 2014).



NATIONAL LEGAL AND POLICY FRAMEWORK

Ratifications/support to Convention No. 169 and UNDRIP

Nepal has ratified ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries on 14 September 2007 and adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on 13 September.



Constitutional safeguards of rights of indigenous peoples along with other several groups

(i) right to non-discrimination on the basis of ethnicity, language, religion, gender, social origin, physical disability or region (Article 18), (ii) right to adhere, practice, and protect one's own religion and defend and run religious sites and trusts (Article 26), (iii) right to free, compulsory, basic education and free education up to the secondary level and right to education in mother languages and run educational institutions (Article 31), (iv) right to participate in state organs (federal and provincial legislatures) on the basis of inclusive principles (Articles 42 and 283), (v) right to social security to endangered (indigenous) groups, and (vi) Indigenous Peoples Commission (Article 261) and (vii) Tharu Commission (Article 263) for the protection of rights and interests of indigenous peoples, including Tharus.

Enactment of relevant laws

(i) Promulgation of Indigenous Peoples Commission Act, 2017 and Tharu Commission Act, 2017 that protect and promote rights and well-being of indigenous peoples and Tharus (Tarai Indigenous peoples) and monitor and supervise implementation of international agreements and conventions relating to indigenous peoples and Tharus, (ii) Enactment of Country Civil (Code) Act 2017 that makes discrimination punishable by three years imprisonment or thirty thousand rupees or both (Country Panel Code/Act 2017, Section 160), Three to seven years imprisonment for the crime of keeping someone as bonded laborer (Ibid, Section 164), Guarantees the right to education in mother languages, right to protect and promote language, script and culture, Recognize customary laws relating to marriage, particularly in relation to certain categories of incestuous relation (Section 70.2.), Recognize communal/collective land and building or other properties as communal/collective property (Section 301) with ensured entitlement (Section 303.2.), Recognize documents prepared in languages other than Nepali language as evidence to be presented at courts (Country Civil Procedural Code, 2017, Sections 273 and 274), Inhuman or humiliating treatment, hate on ethnic, religious and cultural communities as crimes (Country Penal code 2017, Section 38.m and 38.t), and interference on other's social customs also a crime liable to one year imprisonment or ten thousand rupees or both (Ibid, Section 165), Reduction in penalty on cow/ox slaughtering from 12 years imprisonment to maximum 3 years imprisonment (Ibid, Section 289), and the court at any level should provide opportunity for reconciliation or compromise between the parties before giving any verdict (Country Civil Procedural Act, 2017, Section 13).

Currently Fourteenth Plan (2015/16- 2018/19)

of the National Planning Commission is in operation, which is **gradually losing inclusive thrust and essence of social justice and becoming a formal ritual**. Targeted programs and inclusive development or growth are no more emphasized. Power-centered and party-driven approach of development projects, patronage in contract awarding and corruption-ridden practices are making plan document redundant, an emerging development practice that is posing tremendous obstacles to the empowerment, progress and well-being of indigenous peoples. The planning process follow 14 steps to come up with the final plan, that includes: step 1: The National Planning Commission provides the budget ceiling and guidelines for the coming fiscal year, Step 2: The District Development Committee prepares an estimate of the following resources and fills out a standard template, Step 3: DDC organizes a pre-planning workshop, Step 4: Municipalities/VDCs should prepare an estimate/projection of its own-source revenue in the following areas through the meeting of Revenue Advisory Committee, Step 5: A pre-planning workshop at the Ward level is organized in association with the Ward Citizen Forum, Community Organizations, User Committees and Groups, NGOs and the local inhabitants, Step 6: After collecting the proposals from the settlement level, a Ward level assembly is organized in cooperation with the Ward Citizen Forum. In this assembly, the inhabitants of the concerned Ward prioritize the proposed projects based on the following criteria, Step 7: The proposals for the projects collected from the Ward level are further discussed/analyzed at the VDC/Municipality level through the following process, Step: 8 Municipal/VDC Councils prepare three separate lists of projects, Step 9 : The Ilaka Level Planning Meeting is organized, Step 10: Subject/Thematic Committee Meeting is organized, Step 11: Integrated Plan Formulation Committee Meeting is organized to revise, amend and prioritize the projects recommended by the subject/thematic committees through proper analysis of their interrelations and complementarities, Step: 12 DDC Meeting is organized to a) discuss the preparations for the DDC Council, b) Review and classify the projects endorsed by the Integrated Plan Formulation Committee, Step 13: DDC Council approves the projects endorsed by the IPFC, Step 14: DDC conducts documentation of the projects approved by the Council.

The Fourth Human Rights National Action Plan (2014/2015- 2018/2019)

contains programs of implementation of ILO C. 169 and UNDRIP, reviewing existing laws and enacting new laws to comply with the international principles and standards of human rights, among others have never been implemented so far.

Central Bureau of Statistics (CBS) and UNICEF

published Nepal Multiple Indicator Cluster Survey in 2014 and Annual Household Survey 2013/14 in 2015 with abundant data, but not provided disaggregated data by ethnicity/caste, abandoning a practice set by CBS on publishing NLSS report, particularly from voluminous publication of 'Resilience Amidst Conflict: An Assessment of Poverty in Nepal, 1995-96 and 2003-04.

Department of Education

is almost regularly publishing educational statistics in consolidated reports and flash reports providing disaggregated data by social groups but do not provide details by each caste/ethnicity.

Budget Allocation

for protection, development, and promotion of indigenous cultures, customs, festivals, languages, literatures, arts, folklores, histories, narratives and heritage of National Foundation for Development of Indigenous Nationalities has been changed from this Fiscal Year (2017/18) with the argument that these areas fall under the jurisdiction of the governments of provincial and local levels, thus these areas became first victim of fiscal federalism.

The Language Commission

has started to map mother languages for the use in education and government offices and began to provide technical support to those local level governments that made decisions to use mother languages as their official languages.

Mayors of 460 rural municipalities

178 (38.7%) mayors among 293 urban municipalities, 72 (24.6%) mayors, elected recently (2017), belong to indigenous peoples and they have unique opportunities to serve their peoples, if party affiliations not hinder them.



Full realization of indigenous peoples' rights is still a distant dream.

KEY CHALLENGES AND GAPS

- **Constitution makers failed to incorporate indigenous peoples' rights in the new Constitution** in line with the provisions of ILO C. 169 and UNDRIP of which Nepal is a party. Whatever rights enshrined in the constitution, including right to inclusion in state organs, are vague and rights to culture, language, script and cultural civilization and heritage are inadequate, that need tremendous efforts to make them perfect.
- Of the 308 Articles of the new Constitution, **88 Articles are discriminatory, exclusionary and oppressive to indigenous peoples** (See LAHURNIP, 2016, IP Network for SDGs, Nepal 2017). Indigenous peoples have to continue their struggle again with new vigor for the realization of their collective rights and autonomy, which is a serious challenge for them.
- The recommendations of James Anaya, Special Rapporteur, after his visit to Nepal from 24 November to 2 December 2008, concerning the initiation of legal and institutional reforms to comply with ILO C. 169 and UNDRIP, creation of special mechanisms for consultations with indigenous peoples on constitutional provisions, indigenous peoples' right to self-determination for exercising autonomy or self-government, among others were ignored or not implemented. **Indigenous peoples, being victimized by discriminatory institutional practices**, could not take advantage from Special Rapporteur' visit.
- The warnings of the Committee on the Elimination of All Forms of Racial Discrimination (CERD) to the government of Nepal in 2009 for establishing specific thematic committee to ensure participation of indigenous peoples' freely chosen representatives in constitution preparation process and fully recognize and respect their rights guaranteed by the Convention **have not been heeded.**



LINKING CHALLENGES TO SDGS



KEY ELEMENTS OF THE NAVIGATOR COUNTRY STRATEGY AND ACTIONS - IN ADDRESSING THE GAPS AND CHALLENGES

Human Rights Based Approach (HRBA) and Self-Determined Development Based Approach

THE PROJECT WILL BE IMPLEMENTED WITH THE COLLECTIVE INITIATIVES OF
LAHURNIP, NEPAL FEDERATION OF INDIGENOUS NATIONALITIES (NEFIN) AND
NATIONAL INDIGENOUS WOMEN'S FEDERATION (NIWF)



STRATEGY: Collective Empowerment, Alliance and network building, Lobby advocacy



Participatory community workshops to identify and
prioritize needs and develop concrete project
proposals in the area of human development



Training workshops for community leaders and local
indigenous authorities on monitoring of public
policies for human development and budgets
and lobbying of local governments for policy
and programme change as well as fundraising



Information materials produced, localised and/or disseminated
to indigenous communities and organisations on relevant
public laws, policies, programmes and budgets as well as
indigenous strategies
(on e.g. national implementation of the SDGs)



Implementation of pilot projects with the aim to
improve access to rights-based, culturally adequate
and participatory social services and social protection



Dialogue meetings between community leaders and relevant
duty-bearers and stakeholders to seek alliances and
cooperation on project implementation and co-financing



Consolidation of findings, production and dissemination of case material
to relevant policy- and programme-makers at local, national and global
level (videos, audio pod-casts, reports, info-graphics), documenting
learning experiences and models for rights-based, collaborative and
culturally adequate service delivery for indigenous communities.

timeline: 1 November 2017 to 30
September 2020