



NEPAL

UNIVERSAL PERIODIC REVIEW MID-TERM REPORT

An Assessment of Nepal's implementation of 3rd UPR recommendations concerning Climate Change and Gender Equality, Trafficking, Bonded Labor, Gender Equality, and Indigenous Peoples



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Introduction

The National Indigenous Women Forum (NIWF) is an organization established by Indigenous Women in 1998. Its aim is to safeguard and enhance the rights and respect of Indigenous Women in Nepal, especially those from vulnerable and marginalized groups. In partnership with Mukta Kamalari Bikash Manch, a group of liberated women bonded laborers (Kamlari) located in Kailali district, this joint submission Mid-Term Report was prepared.

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On January 21, 2021, the Working Group on Universal Periodic Review held its 37th session to review Nepal. During the session, 98 delegations made statements in an interactive dialogue. The Nepalese government received 233 recommendations and accepted/supported 196 while noting 37 recommendations in total. However, due to constraints on time and resources, this Mid-Term Report focuses on assessing the status of the implementation of those recommendations.

- Climate Change and Gender Equality
- Gender Equality
- Kaimya and Kamlari (Bonded Labor)
- Trafficking
- Indigenous Peoples

Methodology

This Mid-Term Report was prepared after reviewing the government's recent policies, plans, and strategies regarding climate change, gender equality, trafficking, bonded laborers, and Indigenous Peoples. Specifically, the study evaluated these policies and plans from an inclusion perspective to determine if they adequately address the needs of disadvantaged and vulnerable groups, such as Indigenous Women, girls, and bonded laborers. To do this, the study examined relevant reports and publications from the Nepal Government, CSOs, NGOs, and INGOs related to the aforementioned themes.

In addition to this, the assessment study gathered primary information through formal and informal interviews as well as a National Stakeholder Consultation. The consultation took place on June 18, 2023, in Kathmandu, and was attended by representatives from NGOs, National Human Rights Institutions (NHRIs), and various ministries and departments. Participants at the consultation provided reliable information on the progress of recommendations related to Climate Change and Gender Equality, Gender Equality, Kaimya and Kamlari (Bonded Labor), Trafficking, and Indigenous Peoples.

Explanations of color used in assessing recommendation implementation

Fully Implemented – Measures have been taken to fully comply with the recommendations

Partially Implemented – Some measures have been taken to implement the recommendation

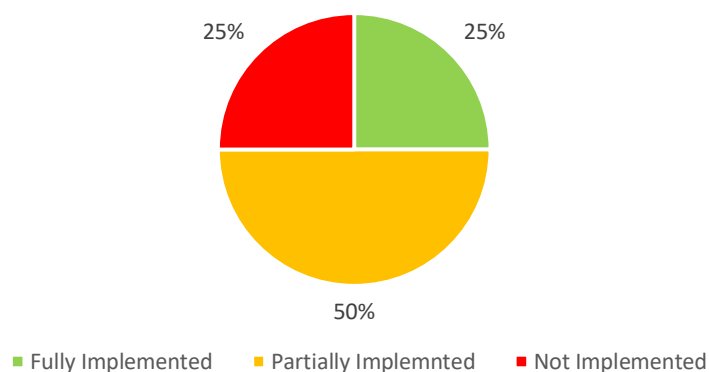
Not Implemented – No measures have been taken toward implementing the recommendation

ASSESSMENT OF IMPLEMENTATION OF THE RECOMMENDATIONS BY THEME

Theme: Climate Change and Gender Equality

Total recommendations received on Climate Change and Gender Equality: 4

Levels of implementation at mid-term of the recommendations on the theme: Climate Change and Gender Equality



Implementation status of each recommendation

Recommendations	Implementation status
159.49 Take t measures to combat climate change and natural disasters (Bangladesh)	Fully implemented
159.50 Ensure that women, children, persons with disabilities, and indigenous and local communities are meaningfully engaged in the development and implementation of climate change and disaster risk reduction frameworks (Fiji)	Partially Implemented
159.52 Apply an inclusive approach in shaping disaster prevention and mitigation policies and strategies by incorporating the views of women and vulnerable groups, including persons with disabilities and older people, indiscriminately (Indonesia)	Partially implemented
159.54 Ensure that vulnerable populations are engaged in the development and implementation of climate resilience and adaptation plans (Maldives).	Not Implemented

According to the UNDP Nepal report (2023), “Nepal is one of the world’s most climate-vulnerable countries due to its fragile geography, climate-sensitive livelihoods of the people, and weak adaptive capacity.”¹ The Government of Nepal (GoN) has formulated several programs, plans, and policies to ensure Gender Equality in climate change action. Some are the

¹ UNDP Nepal (2023). Annual Report 2022. Kathmandu: UNDP. P. 46. Accessed on June 20, 2023 from <https://www.undp.org/nepal/publications/annual-report-2022>

National Adaptation Program of Action to Climate Change 2010², the Climate Change and Gender Action Plan 2012³, and the Nationally Determined Contribution (NDC) 2020. After the Third UPR Review, the Government of Nepal (GoN) implemented the second plan with a focus on Gender Equity and Social Inclusion (GESI) issues. This plan highlighted the inclusion of GESI as a crosscutting area in both the mitigation and adaptation components.

Although the policies and programs mentioned above have acknowledged the importance of considering gender equality and social inclusion (GESI) in addressing climate change, “an intersectional approach to the forms, types, and levels of power relations between different groups of women and men, and excluded groups, is still missing in policies related to climate change. Consequently, sectoral policies do not consider the differential vulnerabilities and exclusions faced by different groups based on gender, social norms, caste, and other forms of discrimination” (ICMOD, UNEP, and UN Women, 2021, p. 3).⁴ Therefore, the policies regarding climate change have been unsuccessful in acknowledging women from marginalized and vulnerable groups such as Dalits and Indigenous Peoples as key stakeholders. At the consultation meeting, women who work on issues of climate change and gender equality shared the same opinion - that women from dominant social groups have reaped the benefits, while those from marginalized and vulnerable groups have been left behind.

The reason for this issue is that the policies and plans in place have a flawed conceptual framework. They fail to consider the knowledge and experiences of vulnerable and marginalized women in addressing the impacts of climate change. Accordingly, vulnerable, marginalized, and Indigenous Women have been viewed in the policies in a negative light, “as beneficiaries and passive recipients of the policy formulation and projects, rather than as influencers and agents of change.” The importance of the involvement of marginalized and vulnerable women in climate change actions has been disregarded on this conceptual basis. (ICMOD, UNEP, and UN Women, 2021). Due to this, women who are vulnerable and marginalized have been left out of the decision-making process and project execution when it comes to taking action on climate change.

Furthermore, individuals from Indigenous and marginalized communities face numerous challenges, including low levels of education, poverty, and patriarchal systems, as well as language barriers. This often results in women from these groups being unaware of the GESI provisions and gender equality, making it difficult for them to become active participants and catalysts for change. Thus, unfortunately, the lack of representation and participation of these vulnerable groups in climate change mitigation and action programs has not fulfilled the UPR recommendations on gender equality and climate change.

² The National Adaptation Program of Action to Climate Change 2010 aimed to operationalize gender concerns in climate change efforts to better implement and promote gender-focused and gender-integrated activities in Nepal.

³ The Nepal Climate Change Policy 2019 recognized the need to integrate Gender Equity and Social Inclusion (GESI) through its objective of mainstreaming GESI into adaptation and mitigation programs and as a crosscutting thematic area in the eight sectorial strategies and working policies.

⁴ Summary for Policymakers: State of Gender Equality and Climate Change in Nepal. Accessed on June 24, 2023 from [https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEAsia/Docs/Publications/2021/12/Summary for Policy Makers GenderandCC.pdf](https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEAsia/Docs/Publications/2021/12/Summary%20for%20Policy%20Makers%20GenderandCC.pdf)

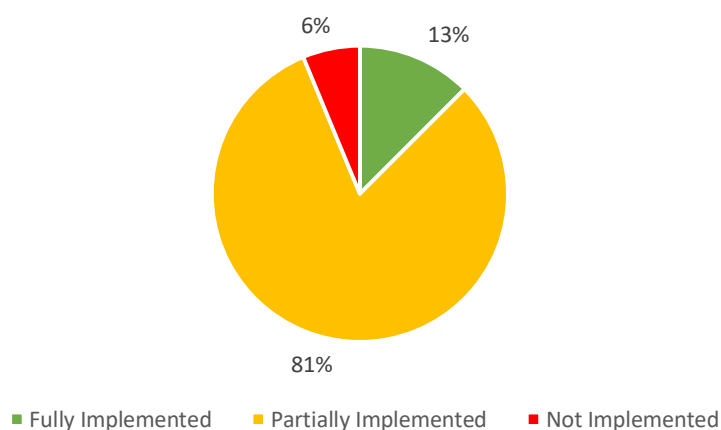
Recommendation:

- The GoN should revise and amend climate change action-related laws and plans with the input and perspective of Indigenous Peoples and Indigenous Women, thereby recognizing the vital role that Indigenous Peoples, Indigenous Women, and Girls play as custodians and guardians of Mother Nature.
- The GoN should revise and update climate change laws and plans to ensure that Indigenous Peoples and Indigenous Women are actively involved in the development and execution of climate change and disaster risk reduction frameworks, ensuring that their voices are heard and their knowledge and expertise are utilized in tackling these pressing issues.
- The GoN should recognize Indigenous Peoples and Indigenous Women, and Girls as the primary agent of change and take into account their knowledge and experiences for sustainable adaptation.

Gender Equality

Total recommendations received on Gender Equality: 16

Levels of implementation at mid-term of the recommendations on the theme: Climate Change and Gender Equality



Implementation status of each recommendation

Recommendations accepted by Nepal	Implementation status
159.36 Adopt comprehensive anti-discrimination legislation that includes a definition of discrimination against women encompassing direct and indirect discrimination and multiple and intersecting forms of discrimination (Guyana);	Not Implemented
159.163 Ensure, in law and practice, the effective combat of sexual violence and the end of discriminatory measures against women and girls, including in policies related to access to justice, attribution of nationality, and prevention of trafficking in persons (Brazil);	Partially Implemented

159.165 Take concrete actions to eliminate all forms of inequality and structural violence against women, in particular in the new constitutional legislation of Nepal (Chile)	Partially Implemented
159.166 Ensure <u>full equality</u> between men and women concerning <u>conferring citizenship</u> on their children and spouse, including by amending provisions in the Constitution and Citizenship Act amendment bill 2020 (Canada)	Partially Implemented
159.167 Continue to promote gender equality and better protect women's rights (China)	Partially Implemented
159.169 Adopt <u>comprehensive legislation</u> banning gender-based discrimination; <u>take effective measures</u> to end gender-based violence, <u>trafficking in women</u> and girls, and sexual exploitation; provide sufficient numbers of safe shelters and other necessary services for victims (Czechia)	Partially Implemented
159.172 Adopt policies to protect and provide justice for women and girls, especially those from minority communities (Estonia)	Partially Implemented
159.174 Ensure that the rights to acquire, transfer and retain citizenship are extended equally to all women and their children (Finland)	Partially Implemented
159.176 Amend the Citizenship Act to enable citizenship documentation at birth and to repeal gender discriminatory provisions (Germany)	Partially Implemented
159.177 Continue its efforts to eliminate forms of discrimination against women and girls, and further promote the rights of women, children, and persons from other vulnerable groups (Viet Nam)	Partially Implemented
159.178 Take measures to further promote gender equality (India)	Partially Implemented
159.179 Further strengthen measures to eliminate discrimination against women and girls, including through concrete legislative and policy interventions, as well as public awareness of the negative effects of harmful practices against women and girls (Indonesia)	Partially Implemented
159.190 Continue to further strengthen the national system to eliminate discrimination against women (Armenia)	Partially Implemented
159.193 Amend the provisions of its normative framework that contravene the Convention on the Elimination of All Forms of Discrimination against Women to guarantee a non-discriminatory approach to the granting of citizenship (Panama);	Partially Implemented
159.194 Promote awareness-raising campaigns and strengthen the enforcement of existing legislation and policies to eradicate harmful practices, trafficking in persons, and child labor (Panama);	Partially Implemented
159.198 Finalize its draft national gender equality policy expeditiously and undertake awareness-raising activities, at all levels of society, about its key measures (Singapore)	Fully Implemented

The Government of Nepal has made progress in promoting gender equality, particularly following the third UPR. Among the notable steps taken are the adoption and implementation of the GESI strategy by 445 local governments, the implementation of an anti-sexual harassment code of conduct by 36 local governments, and the conduct of GESI audits by 18 provincial ministries and 533 local governments. To date, 400 local governments have also appointed GESI focal persons, while various provincial ministries have appointed 55 GESI focal persons. In addition, three provincial governments have endorsed GESI guidelines. Furthermore, the GoN has endorsed the Second National Action Plan for the implementation of United Nations Security Council Resolutions 1325 and 1820, as well as subsequent Resolutions on Women, Peace, and Security (2022-2025).⁵

Despite the implemented policies that have produced favorable outcomes, the female population still experiences marginalization in terms of acquiring legal representation and fair treatment under the law. A crucial lack is “effective implementation of these policies, plans, strategies, and guidelines. Furthermore, these policies and plans failed to recognize unequal social, economic, cultural, and political standing among women. Although all women are excluded, the depth of gender discrimination varies between social and ethnic groups in Nepal. Women from marginalized communities face caste, ethnicity, race, and local-based constraints in addition to the constraints imposed by their gender.”⁶

It is a sad reality that women who come from marginalized communities, such as Dalits and Indigenous Peoples, have long been subject to marginalization and discrimination. This is a deeply ingrained societal issue that needs to be addressed in order to create a more just and equitable society for all.⁷ At the consultation meeting, representatives of Indigenous Women's Organizations expressed their concern about government policies and plans that do not acknowledge them as "Indigenous Women". Instead, they are categorized as "minorities", "marginalized women", or "culturally backward women" in these documents. This approach of not recognizing them fails to consider the discrimination that women from different social groups face. In addition, it has been observed that Indigenous Women are not represented in national census data, nor are they considered in the government's plans and policy documents. Furthermore, a recent examination of the government's federal, provincial, and local policies and plans shows that Indigenous Women are grouped together with "vulnerable or marginalized women," which disregards their identity as Indigenous Women and denies them their collective rights. For example, the assessment study found that despite the implementation of several policies and strategies aimed at promoting gender equality, there is a concerning lack of mention of Indigenous Women in these documents. Notably, the National Gender Equality Policy 2020, the Gender Equality and Social Inclusion (GESI) Strategy 2021-2023, the GESI guidelines of the provincial government, and even the Gender Equality and Social Inclusion Policy 2021 of the National Human Rights Council have failed to address this important issue.

⁵ UNDP Nepal (2023). Annual Report 2022. Kathmandu: UNDP. The plan covers four areas: participation; protection and prevention; relief and recovery and capacity development; resource management; and monitoring and evaluation. It further emphasized the need for coordination and cooperation between federal, provincial and local government, development partners and other stakeholders for its effective implementation (pp. 55-56). Accessed on July 4, 2023 from <https://www.undp.org/nepal/publications/annual-report-2022>

⁶ Climate Change Action Plan 2012. Accessed on June 22, 2023 from https://www.climatelinks.org/sites/default/files/asset/document/2012_IUCN_Climate-Change-Gender-Action-Plan-Nepal.pdf

⁷ World Food Program (2021). Nepal Country Report 2021 – Country Strategic Plan 2019-2023, p. 31. Accessed on June 28, 2023 from <https://docs.wfp.org/api/documents/WFP-0000137922/download/>

The National Human Rights Commission (NHRC) of Nepal (2022) also mentions that “There is no mention of indigenous women in the policy; it seems that there is a problem in exercising the rights of women.⁸” Indigenous Women continue to suffer from constitutional non-recognition, including various forms of exclusion and discrimination in comparison to women of dominant caste groups. A recent study highlights that the “Invisibility of Indigenous Women is the biggest obstacle or challenge for their participation and representation in decision-making.⁹” As a result, “as the Constitution, as well as, laws and policies of Nepal fail to recognize diversity among women, almost all legal provisions directly favor so-called high caste women but not to women belonging to Indigenous Peoples, Dalit, Madhesi, and Muslim.¹⁰”

According to the NHRC report, compared to other women, Indigenous women face problems in having access to “state budget, and resources.¹¹” Indigenous Women encounter significant obstacles in receiving essential social services such as wages, healthcare, and education. This is due to the lack of recognition of their unique vulnerabilities and exclusions, as well as a lack of awareness of their rights and entitlements through government social protection programs. In comparison to women from dominant groups, Indigenous Women face greater challenges in accessing public and social services, justice, and education, as well as productive resources such as land, water, forests, and other natural resources. Furthermore, their traditional knowledge, skills, and practices have been devalued and even criminalized.¹²

Recommendations:

- The GoN should review the current laws and policies of Federal, Provincial, and Local governments to guarantee that Indigenous Women are included, represented, and participating meaningfully.
- The GoN should recognize Indigenous Women as a distinct group within the broader category of "Women" in laws and policies to ensure that they receive the necessary measures to address their specific vulnerabilities and exclusion, ultimately promoting greater equity and justice for all.
- The GoN should collect disaggregated data on Indigenous Women to understand their situation of well-being, discrimination, and inclusion/exclusion. Use this information to revise and formulate policies and plans accordingly.

⁸ NHRC (2022, p. 2). Report on violence against Indigenous Women in Nepal. Accessed on July 16 from <https://www.ohchr.org/sites/default/files/2022-03/Human-rights-nepal.pdf>

⁹ Tebtebba Foundation (2021). Unheard and Unseen: Indigenous Women’s Path to Empowerment and Sustainable Development – Bangladesh, India and Nepal, Volume 1. Philippines: Asian Indigenous Women’s Network.

¹⁰ National Indigenous Women’s Federation (NIWF) and United Nations Development Program (UNDP) in Nepal (2018, p. 32). Economic Empowerment of Indigenous Women in Nepal. Kathmandu: NIWF. Accessed on 14 July from <https://www.undp.org/nepal/publications/economic-empowerment-indigenous-women-nepal>

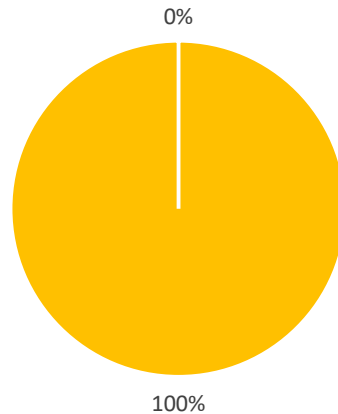
¹¹ National Indigenous Women’s Federation (NIWF) and United Nations Development Program (UNDP) in Nepal (2018, p. 32). Economic Empowerment of Indigenous Women in Nepal. Kathmandu: NIWF. Accessed on 14 July from <https://www.undp.org/nepal/publications/economic-empowerment-indigenous-women-nepal>

¹² National Indigenous Women’s Federation (NIWF) and United Nations Development Program (UNDP) in Nepal (2018, p. 32). Economic Empowerment of Indigenous Women in Nepal. Kathmandu: NIWF. Accessed on 14 July from <https://www.undp.org/nepal/publications/economic-empowerment-indigenous-women-nepal>

Theme: Kamaiya and Kamlari (Bonded Labors)

Total recommendation received on Kamlaiya and Kamlari (bonded labor): 1

Levels of implementation at mid-term of the recommendations on the theme:Kamaiya and Kamlari (bonded labor)



During its third UPR cycle, Nepal agreed to support a recommendation (159.100) that would help end bonded labor practices, specifically those involving children (Norway). Unfortunately, the government of Nepal has not fully eradicated bonded labor as per the UPR recommendation.

The Kamaiya system was widely practiced in the Banke, Bardiya, Dang, Kailali, and Kanchanpur districts of Nepal's western and far-western regions. This system involved male and female/girls bonded laborers known as *Kamaiyas* and *Kamalaris*, who were largely from the Tharu indigenous group in Western Nepal. Over time, much of the land previously owned by the Tharu people was taken over by immigrants from high-caste groups. As a result, they were forced to become bonded laborers, Kamaiya and Kamlari, for the hill immigrants. Due to the loss of forest and pastureland, mass migration from the hills, and poverty, the Tharu people were no longer able to maintain their traditional way of life or perform customary rituals as they lacked the necessary resources.¹³

By introducing two Acts¹⁴ in 2000 and 2002, in July 2000, the government abolished bonded labor. The GoN has banned the bonded labor system in certain districts and provided a special package for the rehabilitation of Kamaiya laborers, including a sum of Rs150,000 initially, later increased to Rs200,000. This has resulted in the emancipation of approximately 37,000 individuals from the Kamaiya system, as well as from debt. Rehabilitation measures, such as the provision of a house construction allowance of NPR 10,000, 75 cubic feet of timber

¹³ For example, Arjun Gunerate (1998:760) notes, "In Dang, following on "loss of land, mass migration and poverty . . . [several major festivals that were previously celebrated annually are now no longer celebrated at all, because of a lack of economic resources" (Cox n.d., 11). In Chitwan, the wholesale destruction of the forest by settlers following the success of the malaria eradication project removed from the ritual calendar the worship of many gods whose jungle shrines had been destroyed in the process. Chitwan *Tharu* believe that the power of their deities is closely linked to the presence of forests; when the forests are destroyed, they believe the gods abandon the area. When rituals are no longer performed, the young are no longer socialized into their performance, and they disappear from the local knowledge system."

¹⁴ The social movement of bonded labor forced the government to declare the emancipation of thousands of Kamaiyas and Kamalaris (bonded labor form indigenous Tharu community) in western Nepal, on 17 July 2000. In 2000 and in 2002, government introduced two Acts: The Bonded Labor (Prohibition) Act and the Kamaiya Labor (Prohibition) Act respectively.

for house construction, land allocation, and other forms of support, have only been partially implemented.¹⁵ Freed Kamaiya and Kamlari are being denied their fundamental social, cultural, and economic rights, as schools are imposing fees disguised under different names, despite the government's promise of free higher education.¹⁶

According to Article 51(6j) of the Constitution of Nepal 2015, everyone should be free from exploitation, slavery, bonded labor, and trafficking, with provision for housing and land for Kamaiya. Unfortunately, despite legal prohibition, bonded labor persists in Nepal due to weak enforcement mechanisms and insufficient resources. The Kamaiya Act prohibits forced labor on Kamaiya, but lack of clarity on government institutions' roles and responsibilities further hinders enforcement.

Many Kamaiya are still struggling to live with dignity and decency even after being liberated. While the government promised to provide necessary assistance for their rehabilitation, this has not been fulfilled, leaving hundreds of freed bonded laborers without support. A commission was established in 2009 to address the rehabilitation of freed Kamaiyas, but the process is yet to be completed despite the issuance of ID cards and classification into four categories.¹⁷ According to a review of national policies regarding Kamalari states, there are 7,138 Kamlaharis who have been freed but still have not received identity cards out of a total of 9,490 on government records. Additionally, the report states that approximately 3,296 Kamlaharis have yet to be registered.¹⁸

Even after 20 years since the Kamaiya's emancipation, the government of Nepal has not adequately rehabilitated them. Many freed Kamaiya and Kamlari are still working for their landlords, and a significant number of Kamaiya and Kamlari have not yet received rehabilitation.¹⁹ Many individuals who have been liberated from bonded labor are compelled to look for work abroad, frequently in the areas of the workforce that are unskilled and have the least amount of protection. These regions include India, the Gulf Cooperation countries, and Malaysia.²⁰ During the consultation meeting, representatives from Mukta Kamlari Bikash Munch, an organization in the Kailali district that advocates for freed women bonded laborers (Kamlari), expressed their disappointment that they have not seen any significant changes in their lives even 23 years after their liberation. They further revealed that countless families are still waiting for the government's rehabilitation support, which would enable them to start a new life as free individuals.

Recommendation:

- The GoN should ensure fully and effectively enforce the Kamaiyas (Prohibition) Act of 2002.

¹⁵ The Kathmandu Post (July 14, 2017). Accessed on July 3, 2023 from <https://kathmandupost.com/miscellaneous/2017/07/17/many-freed-kamaiyas-yet-to-be-rehabilitated>

¹⁶ Online Khabar (January 5, 2023), Accessed on July 3 20, 2023 from <https://english.onlinekhabar.com/kamaiya-never-ending-fight-nepal.html>

¹⁷ The Annapurna express (January 19, 2022). Accessed on July 4, 2023 from <https://theannapurnaexpress.com/news/freed-slaves-of-western-nepal-still-await-rehabilitation-4016/>

¹⁸ National Indigenous Women Forum (2023). A draft report entitled, A review of National Policies relating to the Kamlari

¹⁹ The Annapurna express (January 19, 2022). Accessed on July 10, 2023 from <https://theannapurnaexpress.com/news/freed-slaves-of-western-nepal-still-await-rehabilitation-4016/>

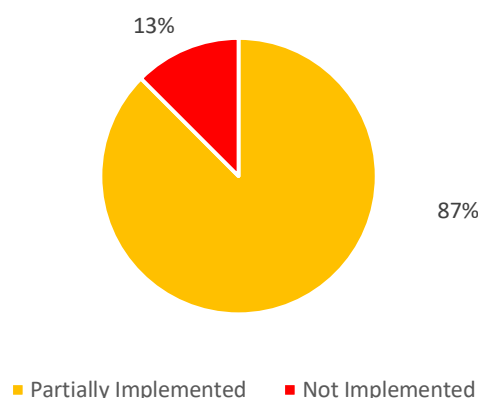
²⁰ Online Khabar (January 5, 2023), Accessed on July 15, 2023 from <https://english.onlinekhabar.com/kamaiya-never-ending-fight-nepal.html>

- The GoN should provide freed bonded laborers with housing, land, employment opportunities, and income-generating activities as agreed upon, in order for them to begin a new life as free individuals

Trafficking

Total recommendations received on Trafficking: 8

Levels of implementation at mid-term of the recommendations on the theme: Trafficking



Implementation status of each recommendation

Recommendations accepted by Nepal	Implementation status
159.163. Ensure, in law and practice, the effective combat of sexual violence and the end of discriminatory measures against women and girls, including in policies related to access to justice, attribution of nationality, and prevention of trafficking in persons (Brazil)	Partially Implemented
159.90 Step up efforts to combat slavery and trafficking in human beings, including by considering the possibility of adopting strategies or action plans in these spheres, as well as additional measures to identify victims of slavery and trafficking, especially among women and children, and to ensure their comprehensive protection and rehabilitation (Belarus).	Partially Implemented
159.91 Ensure that those responsible for trafficking in persons and slavery are brought to justice (Burkina Faso)	Partially Implemented
159.92 Intensify efforts to prevent trafficking in persons and all forms of slavery (Cyprus).	Partially Implemented
159.93 Continue to strengthen efforts to prevent trafficking in persons, slavery, sexual exploitation, and forced labour, and ensure effective implementation of standard operating procedures to address early identification of trafficking victims and provide adequate resources to rehabilitation centers for trafficking victims (Fiji).	Partially Implemented
159.94 Intensify efforts to prevent trafficking in persons and every form of exploitation, including child labour, also through	Partially Implemented

the early identification of and support to victims while bringing perpetrators to justice (Holy See).	
159.98 Revise the Human Trafficking and Transportation (Control) Act to bring the definition of human trafficking into line with international law and to include all aspects of human trafficking (Armenia)	Not Implemented
159.100 Take further steps to end trafficking in persons and bonded labour practices, with special emphasis on children (Norway)	Partially Implemented

Even though recommendation 159.98 has been accepted, which urges the GoN to amend the Human Trafficking and Transportation (Control) Act (HTTCA) to align with international standards, the Act has still not been amended to meet the 2000 UN TIP Protocol. A significant issue is that the Act does not criminalize all forms of labor and sex trafficking. Likewise, recommendation 159.93 was accepted with the urging of the GoN to guarantee the "effective implementation of Standard Operation Procedures (SOP)." However, the GoN has not yet created or endorsed any guidelines or SOPs for identifying victims of trafficking. In fact, there has been a regression in this area. At the consultation meeting, CSO participants working on trafficking disclosed that there is a decline in the budget and resources for rehabilitating survivors and implementing protective measures. On the other hand, the trafficking of women, adolescents, and children for sexual or labor exploitation continues to be a long-standing problem.²¹ Particularly, women and girls are vulnerable to trafficking. Deeply rooted exploitation, discrimination, poverty, and structural inequality are responsible for this vulnerability.²² Further, women and girls from the poor have become more vulnerable after the COVID-19, and "the number of women, adolescents, and children being trafficked has sharply risen post the COVID -19 pandemic."²³

There is no precise data on trafficking in Nepal, but some reports have been compiled based on rescue efforts. It is important to keep in mind that a large number of trafficking incidents go unreported.²⁴ Media highlights that at least 54 women and girls are trafficked from Nepal into India every day and most of them are trafficked, saying that they will "find jobs as domestic workers in India or Gulf countries but ended up being trafficked and raped in brothels abroad."²⁵ Some other estimates highlight that "between 12000 to 15000 girls between ages 6 to 16 are trafficked each year from Nepal to India."²⁶

²¹ World Food Program (2021). Nepal Country Report 2021 – Country Strategic Plan 2019-2023, p.31. Accessed on June 4, 2023 from <https://docs.wfp.org/api/documents/WFP-0000137922/download/>

²² National Indigenous Women's Federation (NIWF) Workshop report 2014. "A Report on the Consultation Workshop on the Key Concerns of Indigenous Women, Kathmandu, Nepal

²³ Online Khabar (April 7, 2021). Accessed on July 21, 2023 from <https://english.onlinekhabar.com/nepals-poor-have-turned-more-vulnerable-to-human-trafficking-amid-covid-19.html>

²⁴ Dungle, R. (2021). Unpacking human trafficking from Neoliberalism and Neoconservatism paradigms in Nepal: A critical review. DOI: <https://doi.org/10.3126/mef.v1i10.3754>

²⁵ Aljazeera (March 8, 2020). Accessed on July 10, 2023 from <https://www.aljazeera.com/gallery/2020/3/8/spirit-me-away-the-women-and-girls-lost-to-trafficking-in-nepal/>

²⁶ Friends of WPC Nepal. Accessed on 21 July from <https://friendsofwpcnepal.org/nepal/#:~:text=It%20is%20estimated%20that%20between,trade%20where%20prostitution%20is%20legal.>

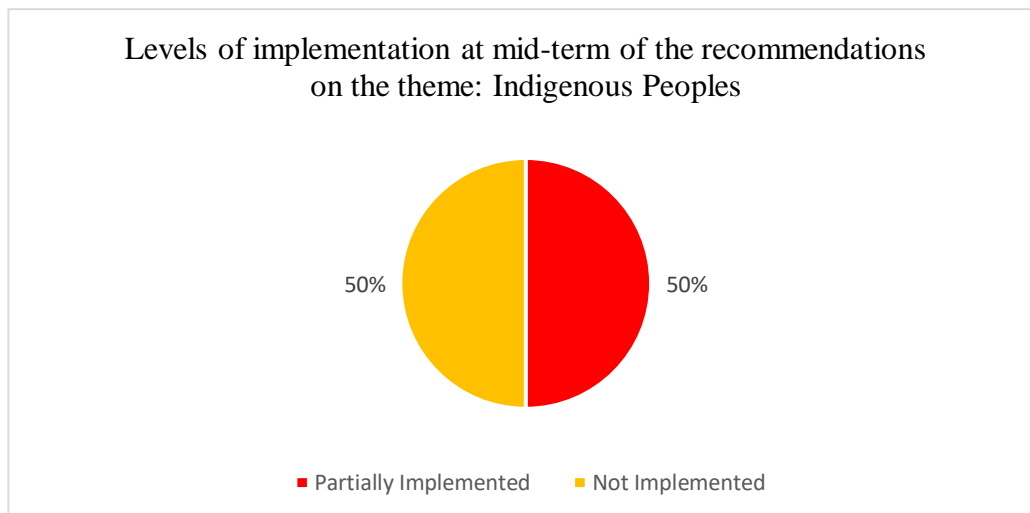
In 2018, NHRC mentioned that the “Entertainment sector emerging as the destination for trafficking girls.”²⁷ A report produced by an NGO states, “Many of the girls and women are expected, and in some cases forced, to provide sexual favors to customers as part of a job that also may involve massage, dance or serving food.”²⁸ Another dimension of trafficking is that among the victims, the majority come from indigenous and marginalized groups. Although there is no systematic documentation and study of trafficking, as media reports, 7 out of 10 victims of trafficking in person are Indigenous Women and girls in Nepal.²⁹ The caste/ethnicity-wise figure produced by Shakti Samuha, the first and only organization run by the survivor of women trafficked in India, also shows that 76 percent of women survivors of the total 821 women survivors who are either members and beneficiaries of its program are women from indigenous communities. The rest 12 percent are Dalits and another 12 percent are from Bahun and Chhetri communities.³⁰

Recommendation:

- The GoN should revise the Human Trafficking and Transportation (Control) Act to bring the definition of human trafficking into line with international law and to include all aspects of human trafficking
- The GoN should finalize and implement Standard Operation Procedures (SOP) guidelines for victim identification of trafficking
- The GoN should allocate and provide adequate resources to rehabilitation centers for trafficking survivors
- The GoN should formulate a plan of action and recognize Psychosocial Counseling as a part of rehabilitation services for survivors.

Theme: Indigenous Peoples

Total recommendations received on Indigenous Peoples: 2



²⁷ NHRC (2018). National report on trafficking in persons in Nepal. Lalitpur: NHRC

²⁸ Free the Slaves (2015). Sex trafficking in Kathmandu’s entertainment sector. Accessed on July 21, 2023 from <https://freetheslaves.net/wp-content/uploads/2016/02/Kathmandu-Entertainment-Lit-Review-Dec-2015-PUBLIC.pdf>

²⁹ Indigenous Voice (July 8, 2023). Accessed on July 10, 2023 from <https://english.indigenousvoice.com/news/7-out-of-every-10-victims-of-trafficking-in-person-are-indigenous-women-and-girls-in-nepal>

³⁰ Ibid.

In its third UPR cycle, Nepal committed when it supported a recommendation 159.219 that it will ensure that the rights of Indigenous communities regarding the use of their land are upheld through the revision of the legislation on this matter. However, no step has been taken so far regarding this matter. The traditional land use rights of Indigenous Peoples have been impacted by various national laws including the Land Reformed Act (1964), the Pasture Land Nationalization Act (1975), the Forest Act (1993), and the National Parks and Wildlife Conservation Act (1973). These laws have led to the nationalization of Indigenous Peoples' land and the transfer of their customary rights to the state and non-indigenous community users. Currently, there are 12 national parks and 6 protected areas, 1-1 hunting reserve, and wildlife conservation, and 13 buffer zones established in Indigenous Peoples' lands, which make up 23.39% of the total land area of the country. Unfortunately, this has resulted in the displacement of thousands of IPs from their life-sustaining resources. Studies reveal that Nepal's Indigenous Peoples have been subjected to numerous human rights violations due to abusive conservation policies over the past five decades.³¹

Implementation status of each recommendation

Recommendations accepted by Nepal	Implementation status
159.218 Step up efforts in the fight against segregation and discrimination of indigenous peoples and ethnic and caste minorities, including Dalits and Tibetans (Czechia)	
159.219 Ensure that the rights of indigenous communities regarding the use of their land are upheld through the revision of the legislation on this matter (Marshall Islands)	Not implemented, regression

In its first UPR cycle 2011 and second UPR cycle 2015³², Nepal has expressed support for various recommendations aimed at safeguarding the rights of Indigenous Peoples. These recommendations also focus on the inclusion and participation of Indigenous Peoples, minorities, and vulnerable groups within the state.³³ Unfortunately, these commitments have not been upheld, and the human rights situation for Indigenous peoples has worsened. Studies indicate that their customary rights to land, livelihood, and natural resources have been limited or completely denied. For example, Amnesty International and the Community Self-Reliance Centre (CSRC) report (2021) found the state's failure to provide effective remedies to the

³¹ Amnesty International (August 9, 2021), Accessed on June 15, 2023 from <https://www.amnesty.org/en/latest/news/2021/08/nepal-indigenous-peoples-the-silent-victims-of-countrys-conservation-success-story/>

³² Nepal supported recommendations: *ensuring an inclusive dialogue with all Nepali minority groups* A/HRC/31/9 – para 122.38 (Ukraine) and *accommodating all sections of Nepal to enable broad-based ownership and participation* A/HRC/31/9, para – 122.1 (India), *strengthen the legislative and institutional framework for the protection and promotion of indigenous peoples* A/HRC/31/9, para 121.9 (Mexico), and *address multiple forms of discrimination against Indigenous Women* A/HRC/31/9, para – 122.37 (Uganda). Besides, the CERD committee's communication to the Government of Nepal (GoN) in September 2009 invited the GoN to *establish a mechanism to ensure Free, Prior, Informed Consent (FPIC) and the participation of indigenous peoples through freely chosen representatives in the constitution-making process*.³² Moreover, the Special Rapporteur on the Rights of Indigenous Peoples (SRIP) recommended to the GoN to *ensure direct representation of IPs and to formulate a separate mechanism of IPs to hold FPIC within the Constitution Assembly* (A/HRC/12/34/Add.3, 20 July 2009, Para 86&87)

³³ First UPR 2011 recommendations A/HRC/17/5, para – 107.8 (Malaysia), A/HCR/17/5 – para 107.4 (Algeria), and A/HRC/17/5, para – 107.18 (Malaysia), which deals with taking effective measures to increase the participation of indigenous peoples, minorities and vulnerable groups and ensure equality between all ethnic, cultural and linguistic groups for the inclusion of these groups in the civil service, law enforcement agencies, and local authorities,

Indigenous peoples for the many rights violations against them.” The study highlighted several cases such as “forced evictions, denial of rights to their ancestral lands, unjustified restrictions on access to the forests and natural resources on which they traditionally rely, amounting to a denial of access to food, arbitrary arrests, unlawful killings, detention, and torture or other ill-treatment by the Nepal Army and National Park personnel protecting conservation areas.”³⁴ Killing, eviction, and abusive treatment of local people by Park authorities, including soldiers, are nothing new in Nepal. A recent study states: On 18 July 2020, the authorities at Chitwan National Park, a UNESCO World Heritage site, set two houses ablaze and destroyed eight others with the use of elephants. The attacks were carried out without any warning. The Chepang families, belonging to one of Nepal’s most marginalized Indigenous communities, lost not just their homes but also their money, identity documents, and other possessions.³⁵ Raj Kumar Chepang, 24, a member of the Chepang indigenous community, died on July 22, 6 days after he and a group of friends were detained and allegedly tortured by soldiers after entering Chitwan Park, reportedly to collect snails.³⁶ Amnesty International Nepal condemned these convictions by issuing a public statement on 21 July 2020.³⁷ In June of the same year, Bardiya National Park authorities attempted to forcibly evict members of the landless Tharu community from their settlements there.³⁸

Large-scale projects such as road construction, hydro-projects, and mining have displaced Indigenous Peoples from their lands and curtailed their access to livelihood and access to natural resources, and pasturelands across the country. Thousands of indigenous peoples have been displaced from their ancestral lands, and have become marginalized in their territories.³⁹ The land reform program, for example, displaced *Tharu* and *Madhesi* from their lands and rendered them to *Kamaiya* (bonded labor) in the western *Terai*.⁴⁰ Several National Parks

³⁴ Amnesty International and the Self-Community Reliance Centre (CRCS) (2021). Violations in the name of conservation. Accessed on July 15, 2023 from <https://www.amnesty.org/en/documents/asa31/4536/2021/en/>

³⁵ Amnesty International (July 21, 2021). Accessed on July 15, 2023 from <https://www.amnesty.org/en/latest/news/2020/07/nepal-authorities-must-stop-ruthless-evictions-of-indigenous-peoples/>

³⁶ Human Rights Watch (July 28, 2020), Accessed on July 14, 2023 from <https://www.hrw.org/news/2020/07/28/nepal-park-guards-accused-persecuting-indigenous-people>

³⁷ The Kathmandu Post (July 10, 2023). Accessed on July 14, 2023 from <https://kathmandupost.com/province-no-3/2020/07/21/amnesty-condemns-enforced-eviction-of-Indigenous-chepang-families-by-chitwan-national-park-authority>

³⁸ Amnesty and CRCS (2021, p. 19) report states: In June 2020, amidst the Covid-19 lockdown enforced by the government, the BNP office arbitrarily issued a seven-day notice threatening 141 families living in the area (mostly from the Tharu community) to leave the forest area in Barabardiya Municipality, Bardiya, or face eviction. They did so without verifying whether the families had access to alternative housing. After protests from local communities, an NHRC intervention with the municipal authorities and filing of a PIL petition in the Supreme Court (see above), the eviction was prevented. Accessed on July 17, 2023 from <https://www.amnesty.org/en/documents/asa31/4536/2021/en/>

³⁹ Lawyers’ Association for Human Rights of Neplease Indigenous Peoples (LAHURNIP) (2016). Case study of Indigenous Peoples’ Rights violation. Accessed on June 15, 2023 from <https://www.lahurnip.org/uploads/publication/file/cases-of-indigenous-peoples.pdf>

⁴⁰ For example, Arjun Gunerate (1998:760) notes, "In Dang, following on "loss of land, mass migration, and poverty . . . [several major festivals that were previously celebrated annually are now no longer celebrated at all, because of a lack of economic resources" (Cox n.d., 11). In Chitwan, the wholesale destruction of the forest by settlers following the success of the malaria eradication project removed from the ritual calendar the worship of many gods whose jungle shrines had been destroyed in the process. Chitwan *Tharus* believe that the power of their deities is closely linked to the presence of forests; when the forests are destroyed, they believe the gods abandon the area. When rituals are no longer performed, the young are no longer socialized into their performance, and they disappear from the local knowledge system."

established in indigenous territories have displaced *Chepang, Tharu, Bote, Raute, Bankariya, Majhi, Darai, Rai, Gurung*, and many other groups from their lands and territories.⁴¹

Similarly, Hydro-projects such as *Arun III, Liku* (there are seven hydro projects along the Likhu River: Likhu-1 Likhu-2 Liku-A, and so on)⁴², *Upper Trishuli*, and *Kulekhani*, have displaced several Indigenous communities, and many other IPs from their lands and territories.⁴³ Expansion of the existing road such as Nagdhunga-Naubise-Muglin (NNM) or new constructions, particularly unsystematic and haphazard road construction in rural areas has further increased the risk of landslides.⁴⁴ The programs of the community forest, which is seen as one of the most successful programs in Nepal, have curtailed the rights of customary use of forest resources. The Amnesty and SRCS study (2021) reports that “The denial of access to traditional resources for food, shelter, and herbal medicine by virtue of the restrictive conservation laws (National Parks and Wildlife Conservation Act, Forest Act, Water Resources Act) has had a particularly heavy toll on those indigenous communities that rely on traditional hunting and gathering practices for subsistence.”⁴⁵ This has not only affected the economic life of IPs but also jeopardized their traditional ways of life, cultural heritage, beliefs, practices, indigenous knowledge, and skills. It has also affected indigenous peoples’ identity and histories – social embeddedness.⁴⁶

Recommendation:

- The GoN should review and adopt relevant legislation and policies to ensure full compliance with international human rights standards, ensuring the rights of Indigenous Peoples
- The GoN should take tangible measures to recognize and protect the rights of indigenous peoples to own, control, develop and use their ancestral lands, territories, and natural resource.

⁴¹ The Record, (May 1, 2017). Accessed on June 17, 2023 from <https://www.recordnepal.com/article/books/the-dark-side-of-nepals-national-parks/>

⁴² Cultural Survival (February 16, 2021). Accessed on July 17, 2023 from <https://www.culturalsurvival.org/news/hydropower-projects-likhu-river-fail-obtain-consent-indigenous-communities-nepal>

⁴³ Lawyers’ Association for Human Rights of Neplease Indigenous Peoples (LAHURNIP) (2016). Case study of Indigenous Peoples’ Rights violation. Accessed on June 15, 2023 from <https://www.lahurnip.org/uploads/publication/file/cases-of-indigenous-peoples.pdf>

⁴⁴ Human Rights Year 2020, INSEC Nepal. Accessed on July 17, 2023 from <https://www.insec.org.np/wp-content/uploads/2020/02/Nepal-Human-Right-Year-Book-2020-Eng.pdf>

⁴⁵ Amnesty International and the Self-Community Reliance Centre (CRCS) (2021). Violations in the name of conservation. Accessed on June 15, 2023 from <https://www.amnesty.org/en/documents/asa31/4536/2021/en/>

⁴⁶ Ibid.