



Government of Nepal

Ministry of Water Supply

Nepal Water Governance and Infrastructure Project

Draft Indigenous Peoples Planning Framework (IPPF)
(Disclosed for public consultation only)

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ACRONYMS AND ABBREVIATIONS

CBO	Community-Based Organization
CoC	Code of Conduct
ESA	Environmental and Social Assessment
ESF	Environmental and Social Framework
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESS	Environmental and Social Standard
FGD	Focus Group Discussions
FPIC	Free, Prior, and Informed Consent
GRM	Grievance Redress Mechanism
ILO	International Labor Organization
IP	Indigenous People
IPDP	Indigenous Peoples Development Plan
IPPF	Indigenous Peoples Planning Framework
MoWS	Ministry of Water Supply
NEFIN	Nepal Federation of Indigenous Nationalities
NFDIN	National Foundation for the Development of Indigenous Nationalities
NGO	Non-Government Organization
PIU	Project Implementation Unit
PMU	Project Management Unit
SEA/SH	Sexual Exploitation and Abuse and Sexual Harassment
SEP	Stakeholder Engagement Plan
UNDRIP	United Nations Declaration of the Rights of Indigenous People
WB	World Bank

EXECUTIVE SUMMARY

The Government of Nepal (GoN) has requested financial support from the World Bank (WB) to prepare and implement the Nepal Water Governance and Infrastructure Project. The project aims to i) strengthen sector institutional capacity for water supply and service delivery in selected local governments under the federal systems set forth in Nepal's 2015 constitution, and ii) increase access to improved and climate resilient water supply and sanitation in participating local governments. Amongst other activities, the proposed project will support access to improved and safe water supply and sanitation in selected municipalities within the two provinces targeted for project interventions, namely Karnali Province and Sudurpashchim Province.

The project is being prepared under the World Bank's Environmental and Social Framework (ESF). A rapid assessment indicates that the project is likely to impact indigenous groups as defined in Environmental and Social Standard (ESS) 7 on Indigenous Peoples. Given that exact locations of these project interventions have not yet been determined, this Indigenous Peoples Planning Framework (IPPF) has been prepared to provide the policy, process, and procedures to inform the preparation of Indigenous Peoples Development Plans (IPDP) as required for project activities. During project implementation, when project ESIA's are developed, IPDPs will be prepared according to the guidance provided in this IPPF. The IPPF presents relevant strategies in accordance with relevant laws of Nepal and the requirements of World Bank's ESS7. Details of impacts will be determined when environmental and social impact assessments (ESIAs) are conducted during the detailed design phase.

Project Description

The proposed project is comprised of four interconnected components: (1) Improving Sector Governance and Institutional Capacity, Project Management; (2) Access to Improved and Safe Water Supply and Sanitation; 3) Building Resilience through Integrated Watershed Management; and 4) Contingency Emergency Response (US\$0 million). This IPPF is relevant for activities under Component 2, where major project activities will be undertaken at local municipalities and where risks and impacts to IPs may arise. These activities include:

- (a) *Urban and peri-urban water supply and City-Wide Inclusive Sanitation (CWIS)*, which includes i. construction and rehabilitation of water supply schemes in participating urban municipalities to improve water and sanitation service delivery levels, and ii. construction of fecal sludge and wastewater treatment facilities including both sewer systems, Fecal Sludge Treatment Plants (FSTPs) and on-site sanitation;
- (b) *Rural water supply and sanitation*, involving construction and rehabilitation of water supply schemes and sanitation facilities in selected rural municipalities of Karnali and Sudurpashchim Provinces to provide adequate, reliable and safe water supply with a year-round reliability through household connections;
- (c) *Water Quality and Monitoring Management*, involving the construction of water quality testing infrastructure, notably functioning laboratories at Provincial levels and selected

municipalities to support water quality monitoring, and operationalization of a national water quality surveillance and governance system and integrated management information system (MIS).

As noted above, the proposed project will be implemented in five local government municipalities in two provinces – Karnali and Sudurpaschim - focusing on provincial capitals, strategic towns and rural municipalities (palikas).¹ A key project target location is Birenranagar Municipality in Surkhet District, which is the capital city of Karnali Province. The other selected urban municipality is Dipayal Silgadhi in Sudurpashchim Province.

Potential Issues and Impacts on Indigenous Peoples

The potential risks and impacts related to IPs have been assessed based on available information and knowledge about the sociocultural conditions of the Karnali and Sudurpashchim Provinces. Given that there are indigenous communities within the targeted Provinces, the tendency that some project activities may affect them is expected. However, at the current stage of project preparation, environmental and social assessments have not yet been carried out for subproject activities and locations for activities are yet to be determined. Consequently, the full scope and magnitude of environmental and social impacts are not known at this stage. Whilst some land-take is required, it is expected to be minimal and will not involve physical displacement. Therefore, land acquisition for project purposes is not expected to cause adverse land impacts to IP communities, relocation of IP groups from their land, or induce significant negative impacts to cultural heritage of IP groups. Risks to IPs will mostly relate to the potential for exclusion in consultation activities and/or project designs and approach that may sidestep IP culture and thus exacerbate existing trends of marginalization. On the positive note, IP communities will experience overall positive impacts due to various project interventions, including through improved access to safe water supply and sanitation.

Legal, Policy and Regulatory Frameworks

The Constitution of Nepal 2015 along with other legal provisions recognize and promote the rights of indigenous communities. Article 18(3) of the constitution enjoins the State not to discriminate against citizens on the grounds of caste, tribe, religion, socioeconomic status, age, sexual orientation, etc. The National Foundation for Upliftment of Adivasi/Janajati Act 2002 established the first comprehensive policy and institutional framework pertaining to Indigenous Nationalities, and further, the Local Government Operation Act 2017 commits municipalities to promote, preserve, and protect language, religion, culture of indigenous people and their welfare in the municipal areas.

Nepal is also a party to various international covenants and treaties which protect and promote the rights of IPs, namely; the United Nations Declaration on the Rights of Indigenous Peoples

¹ The selected municipalities include Birendranagar and Sharada in the Karnali province as well as Dipayal Silgadhi municipality, , Joshipur, Bardgoriya and Janaki rural municipalities – in the Sudurpashchim province.

(UNDRIP) (2007), and the International Labor Organization (ILO) Convention (169) of 1989. Nepal is also a party to the International Convention on the Elimination of All Forms of Racial Discrimination 1965, the International Covenant on Civil and Political Rights 1966, and the International Covenant on Economic, Social and Cultural Rights 1966, which state the right to self-determination.

The World Bank's ESS7 on Indigenous Peoples seeks to ensure that Indigenous Peoples present in, or with collective attachment to, the project area are fully consulted about, and have the opportunity to actively participate in, project design and the determination of project implementation arrangements. In particular, ESS7 includes a process for free, prior and informed consent (FPIC) from IPs, where certain circumstances are met. Given that the project is not expected to adversely impact IP land, access to natural resources, require the relocation of IPs or adversely impact IP land or cultural heritage in line with the criteria outlined under paragraph 24 of ESS7, FPIC will not be required pertaining to the proposed activities under the project. All proposed subprojects will be screened and, as per the Exclusion List provided in the project's Environmental and Social Management Framework (ESMF), any subprojects which require obtaining FPIC from IPs will be not be supported under the project.

Preparation of the Indigenous People Development Plan (IPDP)

An IPDP will be prepared if the sub projects are found to impact IPs. During the detailed design phase of the project, a screening survey will be carried out based on group discussions with communities in the sub-project area to identify presence of any IP communities which have collective attachment to the project area. The project will be responsible for conducting an ESIA and the development of an Environmental and Social Management Plan (ESMP) with the help of IP communities and/or organizations working for them. The ESIA will gather relevant information on demographic, social, and economic aspects of IPs, including any IP cultural heritage in the project area. Suggestions, concerns and feedback of IP communities obtained through meaningful consultation will be incorporated into the project design to help ensure the broader IP support for the project and will be incorporated into the preparation of the IPDP.

Implementation Arrangement

At the Federal Level, the Ministry of Water Supply (MoWS) will be responsible for overall coordination and management of the project. An Intergovernmental Project Steering Committee (PSC), led by the Secretary of the MoWS, will be set up with one of its major tasks being to ensure collaboration and coordination between the three tiers of government and other key stakeholders. A Project Management Unit (PMU) will be set up under MoWS, at the Department of Water Supply and Sewerage Management (DWSSM) and will be responsible for overall financial management and reporting. The PMU has recruited a Social Development Specialist who will assume overall responsibility for effective implementation of the IPPF, including preparation of IPDPs, monitoring activities under the IPPF/IPDPs, and reporting quarterly on the implementation of the IPPF/IPDPs. The Social Development Specialist will be assisted by an Environment

Safeguard Specialist who will lead the implementation of the environmental impact assessment and management of environmental issues.

At the Provincial Level an Intergovernmental Project Steering Committee (PSC) will be established with representation from federal, provincial and all participating local levels. Provincial Ministries of Physical Infrastructure Development will provide technical backstopping and support to municipalities for the implementation of Components 2 and 3.

At the Local Level, the Municipal Social Development Unit (and later municipality WASH units yet to be established) will be responsible for the implementation of social risk management activities including preparation and implementation of IPDPs. This includes identifying IP communities as part of screening and assessment, undertaking consultations and engagements with IP communities, and managing project-related complaints received from IP communities. The environmental and social staff at the participating municipality will be responsible for managing environmental and social issues of the project at the local level, with technical support and guidance from the Environmental and Social Specialists at the PMU.

Stakeholder Engagement, Public Consultation and Disclosure

The development of the IPDPs will follow a participatory approach to enable IPs to have a role in the project planning and development process. The detailed project activities, location of the IP communities, and impacts on IP community will be confirmed as detailed design and assessment of project activities is undertaken. IPs that may be impacted due to the implementation of the project will be consulted to understand and collect their views on their needs, priorities, and preference regarding the project implementation. Separate focus group discussions (FGDs) will be held with IP communities to assess the project impacts and benefits to these groups. A grievance redress mechanism (GRM) will be established to ensure the uptake, investigation, and response to project-related grievances, including any grievances from IP groups. The project will also adopt a culturally appropriate and accessible means by which IPs can lodge complaints for redress, considering their customary dispute mechanisms, and any other needs and requirements. Further details around the process and functioning of the GRM are detailed in the project's Stakeholder Engagement Plan (SEP).

Monitoring and Evaluation of IPDP

Regular monitoring of IPDP implementation will be conducted by the Municipal Social Development Unit (and later municipality WASH units yet to be established). The project will establish a quarterly monitoring system involving project staff, and with the participation of NGOs, affected IPs communities, and local organizations of the IPs communities to ensure participatory monitoring arrangements. A set of monitoring indicators will be developed during IPDP implementation. Appropriate monitoring formats will be developed for effective internal and external monitoring and reporting requirements. In particular, the monitoring aims to: ensure that the standard of living of IPs groups are restored or improved; monitor whether the timelines of the activities planned in the IPDP are being met; assess if social uplift measures or social development

support program are sufficient; identify problems or potential problems; and identify measures of responding immediately to mitigate problems.

सारसंक्षेप

नेपाल सरकारले नेपाल खानेपानी सुशासन तथा पूर्वाधार आयोजना तयारी तथा कार्यान्वयनका लागि विश्व बैंकसँग आर्थिक सहयोगको अपेक्षा गरेको छ। यस आयोजनाको उद्देश्यहरूमा १) नेपालको संविधान २०७२ ले निर्दिष्ट गरेको संघीय प्रणाली अन्तर्गत चुनिएका स्थानीय सरकारहरूमा खानेपानी सुविधाको उपलब्धताका लागि क्षेत्रीय संस्थागत क्षमता सुदृढ गर्ने र २) कार्यक्रम सञ्चालन गरिने स्थानीय सरकारहरूमा सुधारिएको र जलवायु अनुकूल खानेपानी आपूर्ति र सरसफाइमा पहुँच बढाउने लक्ष्य राखिएको छ। अन्य प्रमुख गतिविधिहरूमा प्रस्तावित आयोजनाले कर्णाली प्रदेश र सुदूरपश्चिम प्रदेशहरूका चुनिएका नगरपालिकाहरूमा सुधारिएको र सुरक्षित खानेपानी आपूर्ति र सरसफाइमा पहुँचलाई सहयोग गर्ने रहेका छन्।

यो आयोजना विश्व बैंकको वातावरणीय तथा सामाजिक ढाँचा (ESF) अन्तर्गत तयार भइरहेको छ। द्रुत मूल्याङ्कनले यो आयोजनाले आदिवासी जनजातिहरूमा वातावरणीय र सामाजिक मापदण्ड (ESS) ७ मा परिभाषित गरिएबमोजिम आदिवासी समूहहरूलाई प्रभाव पार्ने सम्भावना रहेको देखाउँछ। यी आयोजना सञ्चालन हुने वास्तविक स्थानहरू अझै निर्धारण गरिएका छैनन् भन्ने कुरालाई ध्यानमा राख्दै, यो आदिवासी जनजाति योजना ढाँचा (IPPF) आयोजनाका लागि आवश्यक पर्ने आदिवासी जनजाति विकास योजनाहरू (IPDP) को तयारीलाई सूचित गर्न नीति, प्रक्रिया र प्रक्रियाहरू प्रदान गर्न तयार गरिएको छ। आयोजना कार्यान्वयन क्रममा आयोजनाको वातावरणीय तथा सामाजिक प्रभाव मूल्याङ्कन (ESIAs) तर्जुमा गर्दा आदिवासी जनजाति विकास योजनामा दिइएको मार्गदर्शन अनुसार तयार गरिनेछ। आदिवासी जनजाति योजना ढाँचाले नेपालको सान्दर्भिक कानून र विश्व बैंकको ESS7 का आवश्यकताहरू बमोजिम सान्दर्भिक रणनीतिहरू प्रस्तुत गर्दछ। विस्तृत डिजाइन चरणमा वातावरणीय र सामाजिक प्रभाव मूल्याङ्कन (ESIAs) सञ्चालन गर्दा प्रभावहरूको विवरण निर्धारण गरिनेछ।

आयोजना विवरण

प्रस्तावित आयोजना चार अन्तरसम्बन्धित कम्पोनेन्ट (अङ्ग) हरू मिलेर बनेको छ: (१) क्षेत्रगत सुशासन र संस्थागत क्षमतामा सुधार, आयोजना व्यवस्थापन; (२) सुधारिएको र सुरक्षित खानेपानी आपूर्ति र सरसफाइमा पहुँच; ३) एकीकृत जलाधार व्यवस्थापन मार्फत अनुकुलन निर्माण गर्ने; र 4) आकस्मिक आपतकालीन क्रियाकलापहरू (शून्य अमेरिकी डलर)। यो आदिवासी जनजाति योजना ढाँचा कम्पोनेन्ट २ अन्तर्गतका गतिविधिहरूका लागि सान्दर्भिक छ, जहाँ प्रमुख आयोजना गतिविधिहरू स्थानीय नगरपालिकाहरूमा सञ्चालन गरिनेछन् र जहाँ आदिवासी जनजातिहरूका लागि जोखिम र प्रभावहरू उत्पन्न हुन सक्छन्। यस अन्तर्गत देहाय बमोजिमका गतिविधिहरू समावेश हुनेछन्:

- क) शहरी र सानाशहरी खानेपानी आपूर्ति र शहरव्यापी समावेशी सरसफाइ (CWIS), जसमा १. खानेपानी र सरसफाई सुविधाको स्तर सुधार गर्न सहभागी शहरोन्मुख नगरपालिकाहरूमा खानेपानी योजनाहरूको निर्माण र पुनर्स्थापना, र २. ढल प्रणालीहरूमा लेदो व्यवस्थापन र फोहोर पानी प्रशोधन सुविधाहरूको निर्माण, र सरसफाइ सहित लेदो प्रशोधन प्रणालीहरूको स्थापना (FSTPs),
- ख) ग्रामीण खानेपानी तथा सरसफाइ, कर्णाली र सुदूरपश्चिम प्रदेशका चुनिएका गाउँपालिकाहरूमा खानेपानी योजना र सरसफाइ सुविधाको निर्माण र पुनर्स्थापना गरी घर घर धारा जडान मार्फत वर्षेभरि भरपर्दो र सुरक्षित खानेपानी उपलब्ध गराउने कार्य,
- ग) खानेपानी गुणस्तर एवं अनुगमन व्यवस्थापन, पानी गुणस्तर परीक्षण पूर्वाधार निर्माण, विशेष गरी प्रादेशिक स्तरहरूमा प्रयोगशालाहरू र चयन गरिएका पालिकाहरूलाई पानीको गुणस्तर अनुगमन कार्यमा सहयोग गर्न, र राष्ट्रिय पानी गुणस्तर निगरानी, सुशासन प्रणाली र एकीकृत व्यवस्थापन सूचना प्रणाली (MIS) को परिचालन ।

माथि नै उल्लेख गरिए अनुसार प्रस्तावित आयोजना कर्णाली र सुदूरपश्चिम प्रदेशका पाँच स्थानीय सरकारहरू - प्रादेशिक राजधानी, रणनीतिक शहर र गाउँपालिका^२ लाई केन्द्रित गरी कार्यान्वयन गरिनेछ । कर्णाली प्रदेशको राजधानी शहर सुर्खेत जिल्लाको वीरेन्द्रनगर नगरपालिका मुख्य आयोजना लक्षित स्थान हो । छनोट भएको अर्को शहरोन्मुख नगरपालिका सुदूरपश्चिम प्रदेश अन्तर्गतको दिपायल सिलगढी हो ।

सम्भावित सवालहरू र आदिवासी जनजातिहरूमा यसका प्रभावहरू

कर्णाली र सुदूरपश्चिम प्रदेशको सामाजिक-सांस्कृतिक अवस्थाका बारेमा उपलब्ध जानकारी र ज्ञानका आधारमा आदिवासी जनजाति सम्बन्धी सम्भावित जोखिम र प्रभावहरूको मूल्याङ्कन गरिएको छ । लक्षित प्रदेशहरूमा आदिवासी समुदायहरू रहेकाले उनीहरूलाई केही आयोजना गतिविधिहरूले असर गर्नसक्ने संभावना देखिएको छ, तर, आयोजनाको तयारीको हालको चरणमा उप-आयोजना गतिविधिहरूका लागि वातावरणीय र सामाजिक मूल्याङ्कन हुन सकेको छैन र आयोजना अन्तर्गत सञ्चालन हुने गतिविधिहरूका लागि स्थानहरू निर्धारण हुन बाँकी छ । फलस्वरूप, यस चरणमा वातावरणीय र सामाजिक प्रभावहरूको पूर्ण दायरा र परिमाण अज्ञात नै छ । केही जग्गा अधिग्रहण गर्न आवश्यक भए तापनि यो न्यूनतम हुने अपेक्षा गरिएको छ र यसमा भौतिक विस्थापन समावेश हुनेछैन । तसर्थ, आयोजनाको उद्देश्यका लागि जग्गा अधिग्रहणले आदिवासी जनजाति समुदायहरूलाई पर्न सक्ने जग्गा सम्बन्धी प्रतिकूल प्रभावहरू, आफ्नो थातथलोबाट आदिवासी जनजाति समूहहरूको स्थानान्तरण, वा आदिवासी जनजाति समूहहरूको सांस्कृतिक सम्पदामा महत्त्वपूर्ण नकारात्मक प्रभाव पर्ने अपेक्षा गरिएको छैन । आदिवासी जनजातिहरूका जोखिमहरू प्रायः परामर्श गतिविधिहरू र/वा आयोजना डिजाइनहरू र दृष्टिकोणमा बहिष्करणको सम्भावनासँग सम्बन्धित हुन्छन् जसले आदिवासी जनजाति संस्कृतिलाई पन्छाउन सक्छ र यसरी सीमान्तीकरणको विद्यमान प्रवृत्तिहरूलाई बढावा दिन्छ । सकारात्मक रूपमा हेर्दा आदिवासी जनजाति समुदायहरूले सुरक्षित खानेपानी आपूर्ति र

^२ छनोट भएका नगरपालिकाहरूमा कर्णाली प्रदेशको वीरेन्द्रनगरका साथै शारदा नगरपालिका तथा सुदूरपश्चिम प्रदेशको दिपायल सिलगढी नगरपालिका लगायत जोशीपुर, बर्दगोरिया र जानकी गाउँपालिका रहेका छन् ।

सरसफाइमा सुधारिएको पहुँच मार्फत विभिन्न आयोजना हस्तक्षेपहरूका कारण समग्र सकारात्मक प्रभावहरू अनुभव गर्नेछन् ।

कानूनी, नीतिगत र नियमक ढाँचा

नेपालको संविधान २०७२ ले अन्य कानूनी प्रावधानहरूसँग आदिवासी समुदायको अधिकारलाई मान्यता र बढावा दिएको छ । संविधानको धारा १८ (३) ले जात, जाति, धर्म, सामाजिक-आर्थिक स्थिति, उमेर, लैङ्गिक रुझान आदिका आधारमा नागरिकमाथि भेदभाव नगर्न राज्यलाई आदेश दिएको छ । आदिवासी जनजाति सम्बन्धी विस्तृत नीति र संस्थागत ढाँचा, थप, स्थानीय सरकार सञ्चालन ऐन २००२ ले नगरपालिका क्षेत्रहरूमा आदिवासीहरूको भाषा, धर्म, संस्कृति र उनीहरूको कल्याणको प्रवर्द्धन, संरक्षण र संरक्षण गर्न नगरपालिकाहरूलाई प्रतिबद्ध बनाएको छ ।

नेपाल आदिवासी जनजातिहरूको अधिकारको संरक्षण र प्रवर्द्धन गर्ने विभिन्न अन्तर्राष्ट्रिय सम्झौता र सन्धिहरू अर्थात् आदिवासी जनजातिको अधिकारसम्बन्धी संयुक्त राष्ट्र संघको घोषणापत्र (UNDRIP) (२००७), र अन्तर्राष्ट्रिय श्रम संगठन (ILO) को सन् १९८९ को महासन्धि (१६९) को पक्षधर राष्ट्र पनि हो । नेपाल सबै प्रकारका जातीय भेदभाव उन्मूलनसम्बन्धी अन्तर्राष्ट्रिय महासन्धि १९६५, नागरिक र राजनीतिक अधिकार १९६६, अन्तर्राष्ट्रिय अनुबन्ध र आर्थिक, सामाजिक र सांस्कृतिक अधिकार १९६६ को पक्षधर राष्ट्र पनि हो, जसले आत्मनिर्णयको अधिकारको व्याख्या गर्दछ ।

आदिवासी जनजातिहरूका सम्बन्धमा विश्व बैंकको वातावरणीय तथा सामाजिक मापदण्ड (ESS7) ले यो सुनिश्चित गर्न खोजेको छ कि आदिवासी जनजातिहरू आयोजना क्षेत्रमा उपस्थित छन्, वा सामूहिक संलग्नताका साथ, आयोजनाको डिजाइन र आयोजना कार्यान्वयन व्यवस्थाहरूको निर्धारणमा सक्रिय रूपमा सहभागी हुने अवसरहरू पाएका छन् । विशेष गरी, वातावरणीय तथा सामाजिक मापदण्डले आदिवासी जनजातिहरूबाट निःशुल्क, पूर्व र सूचित सहमति (FPIC) का लागि प्रक्रिया समावेश गर्दछ, जहाँ निश्चित परिस्थितिहरू पूरा हुन्छन् । ESS7 को अनुच्छेद २४ अन्तर्गत उल्लिखित मापदण्ड अनुसार आयोजनाले आदिवासी जनजातिहरूको भूमि तथा प्राकृतिक स्रोतहरूमा पहुँच, उनीहरूको स्थानान्तरण आवश्यक वा उनीहरूकोभूमि वा सांस्कृतिक सम्पदालाई प्रतिकूल प्रभाव पार्ने अपेक्षा गरिएको छैन भनी निःशुल्क र पूर्व सूचित सहमति आवश्यक पर्दैन । सबै प्रस्तावित उप-आयोजनाहरू छनोट गरिनेछ र, आयोजनाको वातावरणीय र सामाजिक व्यवस्थापन ढाँचा (ESMF) मा प्रदान गरिएको बहिष्करण सूची अनुसार, आदिवासी जनजातिहरूबाट निःशुल्क र पूर्व सूचित सहमति प्राप्त गर्न आवश्यक पर्ने कुनै पनि उप-आयोजनाहरूलाई आयोजना अन्तर्गत समर्थन वा सहयोग गरिने छैन ।

आदिवासी जनजाति विकास योजना (IPDP) को तयारी

उप-आयोजनाहरूले आदिवासी जनजातिहरूलाई प्रभाव पारेको पाइएमा आदिवासी जनजाति विकास योजना तयार गरिनेछ । आयोजनाको विस्तृत डिजाइन चरणको अवधिमा, आयोजना क्षेत्रमा सामूहिक संलग्नता भएका कुनै पनि

आदिवासी जनजाति समुदायहरूको उपस्थिति पहिचान गर्न उप-आयोजना क्षेत्रका समुदायहरूसँग सामूहिक छलफलका आधारमा स्क्रिनिङ गरी सर्वेक्षण गरिनेछ । आयोजनाले वातावरणीय र सामाजिक प्रभाव मूल्याङ्कन (ESIA) सञ्चालन गर्न र आदिवासी जनजाति समुदायहरू र/वा तिनीहरूका लागि काम गर्ने संस्थाहरूको सहयोगमा वातावरणीय र सामाजिक व्यवस्थापन योजना (ESMP) को विकास गर्न जिम्मेवार हुनेछ । ESIA ले आयोजना क्षेत्रमा कुनै पनि आदिवासी जनजातिसँग सम्बन्धित सांस्कृतिक सम्पदा सहित उनीहरूको जनसांख्यिकीय, सामाजिक, र आर्थिक पक्षहरूमा सान्दर्भिक जानकारी सङ्कलन गर्नेछ । अर्थपूर्ण परामर्श मार्फत प्राप्त आदिवासी जनजाति समुदायहरूको सुझाव, सरोकार र प्रतिक्रियालाई आयोजनाका लागि व्यापक आदिवासी जनजाति समर्थन सुनिश्चित गर्न मद्दतका लागि आयोजना डिजाइनमा समावेश गरिनेछ र त्यसलाई आदिवासी जनजाति विकास योजना को तयारीमा समावेश गरिनेछ ।

कार्यान्वयन व्यवस्था

संघीय स्तरमा आयोजनाको समग्र समन्वय र व्यवस्थापनको जिम्मेवारी खानेपानी मन्त्रालयको हुनेछ । तीन तहका सरकार र अन्य प्रमुख सरोकारवालाहरू बीचको सहकार्य र समन्वय सुनिश्चित गर्नका लागि खानेपानी मन्त्रालयका सचिवको नेतृत्वमा एक अन्तरसरकारी आयोजना निर्देशन समिति (PSC) गठन गरिनेछ । खानेपानी तथा ढल निकास व्यवस्थापन विभाग (DWSSM) मा खानेपानी मन्त्रालय अन्तर्गत आयोजना व्यवस्थापन इकाई (PMU) स्थापना गरिनेछ, जो समग्र वित्तीय व्यवस्थापन र रिपोर्टिङका लागि जिम्मेवार हुनेछ । आयोजना व्यवस्थापन इकाईले एक सामाजिक विकास विज्ञ नियुक्त गरेको छ जसले IPPF को प्रभावकारी कार्यान्वयनका लागि समग्र जिम्मेवारी लिनेछ, जसमा IPDPs को तयारी, IPPF/IPDPs अन्तर्गत गतिविधिहरूको अनुगमन, र IPPF/IPDPs को कार्यान्वयनमा त्रैमासिक रिपोर्टिङ जस्ता क्रियाकलापहरू समावेश छन् । सामाजिक विकास विज्ञलाई वातावरणीय सुरक्षा विज्ञले पनि सहयोग गर्नेछन् जसले वातावरणीय प्रभाव मूल्याङ्कन र वातावरणीय समस्याहरूको व्यवस्थापनको कार्यान्वयनको नेतृत्व गर्नेछ ।

प्रादेशिक तहमा संघ, प्रदेश र सबै सहभागी स्थानीय तहको प्रतिनिधित्वसहितको अन्तरसरकारी आयोजना निर्देशन समिति (PSC) गठन गरिनेछ । प्रादेशिक भौतिक पूर्वाधार विकास मन्त्रालयले कम्पोनेन्ट २ र ३ को कार्यान्वयनका लागि नगरपालिकाहरूलाई प्राविधिक सहयोग प्रदान गर्नेछ ।

स्थानीय स्तरमा, नगरपालिका सामाजिक विकास एकाइ (र पछि नगरपालिका स्तरीय खानेपानी, सरसफाइ तथा स्वच्छता एकाइहरू स्थापना हुन बाँकी छन्) आदिवासी जनजाति विकास योजनाको तयारी र कार्यान्वयन लगायत सामाजिक जोखिम व्यवस्थापन गतिविधिहरूको कार्यान्वयनको लागि जिम्मेवार हुनेछन् । यसमा छनोट र मूल्याङ्कनका भागको रूपमा आदिवासी जनजाति समुदायहरूलाई पहिचान गर्ने, आदिवासी जनजाति समुदायहरूसँग परामर्श र संलग्नताहरू गर्ने र ती समुदायहरूबाट प्राप्त आयोजनासँग सम्बन्धित गुनासोहरू व्यवस्थापन गर्ने प्रवधानहरू समावेश छन् । सहभागी नगरपालिकाका वातावरणीय र सामाजिक कर्मचारीहरू प्राविधिक सहयोग र आयोजना व्यवस्थापन इकाईका

वातावरणीय र सामाजिक विशेषज्ञहरूको मार्गदर्शनमा स्थानीय स्तरमा आयोजनाको वातावरणीय र सामाजिक समस्याहरू व्यवस्थापन गर्न जिम्मेवार हुनेछन् ।

सरोकारवाला संलग्नता, सार्वजनिक परामर्श र सार्वजनिकीकरण

आदिवासी जनजाति विकास योजनाहरूको तर्जुमाले आयोजना योजना र विकास प्रक्रियामा आदिवासी जनजातिहरूलाई भूमिका निर्वाह गर्न सक्षम बनाउन सहभागितामूलक दृष्टिकोण अपनाउनेछ । विस्तृत आयोजना गतिविधिहरू, आदिवासी जनजाति समुदायहरूको स्थान, र आदिवासी जनजाति समुदायमा प्रभावहरू आयोजना गतिविधिहरूको विस्तृत डिजाइन र मूल्याङ्कन गरिएको रूपमा पुष्टि गरिनेछ । आयोजना कार्यान्वयनको कारणले प्रभावित हुन सक्ने आदिवासी जनजातिहरूसँग उनीहरूको आवश्यकता, प्राथमिकता र प्राथमिकताहरू र आयोजना कार्यान्वयनको सन्दर्भमा उनीहरूको विचार बुझ्न र सङ्कलन गर्न परामर्श गरिनेछ । यी समूहहरूलाई आयोजनाको प्रभाव र लाभहरूको मूल्याङ्कन गर्न आदिवासी जनजाति समुदायहरूसँग छुट्टै लक्षित समूह छलफलहरू (FGDs) आयोजित गरिनेछ । एक गुनासो निवारण संयन्त्र (GRM) स्थापना गरिनेछ, जसमा आदिवासी जनजाति समूहहरूबाट आएका कुनै पनि गुनासोहरू सहित आयोजनासँग सम्बन्धित गुनासोहरूको ग्रहण, अनुसन्धान र संबोधन सुनिश्चित गरिनेछ । आयोजनाले सांस्कृतिक रूपमा उपयुक्त र पहुँचयोग्य माध्यम पनि अपनाउनेछ जसद्वारा आदिवासी जनजातिहरूले आफ्नो परम्परागत विवाद संयन्त्र र अन्य कुनै आवश्यकताहरूलाई ध्यानमा राखेर समाधानका लागि गुनासोहरू दर्ता गर्न सक्छन् । गुनासो निदान संयन्त्रको प्रक्रिया र कार्यका बारेमा थप विवरणहरू आयोजनाको सरोकारवाला संलग्नता योजना (SEP) मा विस्तृत रूपमा दिइएको छ ।

आदिवासी जनजाति विकास योजनाको अनुगमन र मूल्याङ्कन

आदिवासी जनजाति विकास योजना कार्यान्वयनको नियमित अनुगमन नगर सामाजिक विकास इकाई (र पछि नगरपालिका स्तरीय खानेपानी, सरसफाइ तथा स्वच्छता एकाइहरू स्थापना हुन बाँकी) द्वारा सञ्चालन गरिनेछ । आयोजनाले सहभागितामूलक अनुगमन प्रबन्ध सुनिश्चित गर्न गैरसरकारी संस्थाहरू, प्रभावित आदिवासी जनजाति समुदायहरू र सो समुदायका स्थानीय संस्थाहरूको सहभागितामा आयोजना कर्मचारीहरू समावेश गरी त्रैमासिक अनुगमन प्रणाली स्थापना गर्नेछ । आदिवासी जनजाति विकास योजना कार्यान्वयनको क्रममा अनुगमन सूचकहरूको एक सेट विकसित गरिनेछ । प्रभावकारी आन्तरिक र बाह्य अनुगमन र प्रतिवेदन आवश्यकताहरूका लागि उपयुक्त अनुगमन ढाँचाहरू विकास गरिनेछ । विशेष गरी, अनुगमनको उद्देश्य : आदिवासी जनजाति समूहहरूको जीवनस्तर पुनर्स्थापित वा सुधार गरिएको छ भनी सुनिश्चित गर्ने; आदिवासी जनजाति विकास योजनामा निर्धारित गतिविधिहरूको समय सीमा पूरा भइरहेको छ कि छैन भनेर निगरानी गर्ने; सामाजिक उत्थानका उपायहरू वा सामाजिक विकास सहायता कार्यक्रम पर्याप्त छन् कि छैनन् भनी मूल्याङ्कन गर्ने; समस्या वा सम्भावित समस्याहरूको पहिचान गर्ने र समस्याहरू न्यूनीकरणका लागि गर्न तुरुन्तै प्रतिक्रिया दिने उपायहरू पहिचान गर्ने रहेका छन् ।

1. INTRODUCTION

1.1 Background

The Government of Nepal (GoN) has requested financial support from the World Bank (WB) to prepare and implement the Nepal Water Governance and Infrastructure Project. The project aims to: i) strengthen sector institutional capacity for water supply and service delivery in selected local governments under the federal systems set forth in Nepal's 2015 constitution, and ii) increase access to improved and climate resilient water supply and sanitation in participating local governments. Amongst other activities, the proposed project will support access to improved and safe water supply and sanitation in selected municipalities within the two provinces targeted for project interventions, namely Karnali and Sudurpaschim Provinces.

The project is being prepared under the World Bank's Environmental and Social Framework (ESF). A rapid assessment indicates that the project is likely to impact indigenous groups which would qualify as indigenous people as defined in World Bank's Environmental and Social Standard (ESS) 7 on Indigenous Peoples. Given that specific locations of these project interventions have not yet been determined, this Indigenous Peoples Planning Framework (IPPF) has been prepared to provide the policy, process, and procedures to inform the preparation of Indigenous Peoples Development Plans (IDPD) as required for project activities. During project implementation, when project ESIA's are developed, IPDPs will be prepared according to this IPPF. The IPPF presents relevant strategies in accordance with relevant laws of Nepal and the requirements of ESS7. Details of impacts will be determined when environmental and social impact assessments (ESIAs) are conducted during the detailed design phase.

1.2 Project Description

The proposed project is comprised of four interconnected components:

Component 1: Improving Sector Governance and Institutional Capacity, Project Management. This component will provide support to improve sector governance and build institutional capacity of water supply and sanitation related agencies of all the three levels of Federal, Provincial and Local Municipality Level, including establishing dedicated municipality WASH units and municipal utilities.

Component 2: Access to Improved and Safe Water Supply and Sanitation. The activities under this component are divided into three further subcomponents:

- (a) *Urban and peri-urban water supply and City-Wide Inclusive Sanitation (CWIS)*, which includes i. construction and rehabilitation of water supply schemes in participation urban municipalities to improve water and sanitation service delivery levels, and ii. construction of fecal sludge and wastewater treatment facilities including both sewer systems, Fecal Sludge Treatment Plants (FSTPs) and on-site sanitation;
- (b) *Rural water supply and sanitation*, involving construction and rehabilitation of water supply schemes and sanitation facilities in selected rural municipalities of Karnali and

Sudurpashchim Provinces to provide adequate, reliable and safe water supply with a year round reliability through household connections.

- (c) *Water Quality and Monitoring Management*, involving the construction of water quality testing infrastructure, notably functioning laboratories at Provincial levels and selected municipalities to support water quality monitoring, and operationalization of a national water quality surveillance and governance system and integrated management information system (MIS).

Component 2 civil works packages will be structured in phases aligned with the institutional reforms implemented under Component 1 to ensure that the responsible implementing units have acquired the capacity to undertake the infrastructure works and to manage sustainably the respective WSS services.

Component 3: Building Resilience through Integrated Watershed Management. This component will support rural/urban watershed management and nature-based solutions to improve upstream/downstream water quality and environmental flows, and provide adaptation and mitigation measures against climate-related hazards, including droughts, floods, and landslides.

Component 4: Contingency Emergency Response. A provisional component to finance a national response, in the face of an eligible emergency or crisis, if required.

As noted above, the proposed project will be implemented in selected local governments in two provinces – Karnali and Sudurpaschim (former Provinces 6 and 7) focusing on provincial capitals, strategic towns and selected rural municipalities (palikas). A key project target location is Birenranagar Municipality, Surkhet, which is the capital city of Karnali Province. The other selected urban municipality is Dipayal Silgadhi in Sudurpashchim Province.

The project activities that may entail risks or impacts on indigenous peoples would arise under Component 2, which involve construction works and where the majority of project activities will be undertaken.

1.3 Objectives of IPPF

The principal objectives of the IPPF are to:

- i. Ensure that the project undertakes consultations with IP communities wherever they are affected
- ii. Obtain Free, Prior and Informed Consent (FPIC) from affected IP communities in the three circumstances described in ESS7
- iii. Ensure that project benefits are accessible to IP communities living in the project area
- iv. Avoid any adverse impacts on IP communities to the maximum extent possible and if unavoidable ensure that adverse impacts are minimized and mitigated

- v. Ensure the participation of IP communities in the entire process of preparation, implementation, and monitoring of sub-project activities
- vi. Minimize further social and economic imbalances within IP communities; and
- vii. Develop the appropriate training / income generation activities in accordance with IPs own defined needs and priorities.
- viii. Ensure that project activities do not encroach on the traditional cultural values of IPs

1.4 Potential Issues and Impacts on IPs

The potential risks and impacts related to IPs from the proposed civil works under Component 2 have been primarily assessed based on available information and knowledge of Karnali and Sudurpashchim Provinces, and previous assessments completed. Given that there are some indigenous communities identified to be living in the targeted Provinces, indigenous communities could also be affected from project activities. However, at the current stage of project preparation, environmental and social assessments have not yet been carried out for any subproject activities and locations are yet to be determined. Consequently, environmental and social impacts have not yet been determined. However, it is expected that proposed project activities may give rise to the following risk and impacts which may impact IPs:

- Adverse impacts to IPs as a result of land taking - some minimal acquisition of land may be required under Component 2, including as part of the construction and rehabilitation of water supply systems in selected urban and rural areas. Such acquisitions will prioritize government-owned lands and forested areas with no risks to physical displacement or adverse impacts on IPs. Similarly, it is not expected that there will be any impacts to IP cultural heritage resulting from land taking activities. Further, the project will not support any activities which require obtaining FPIC from IPs, in line with the Exclusion List provided in the project's Environmental and Social Management Framework (ESMF).
- Project design and approach not being undertaken in line with IP culture and therefore contributing to their further marginalization.
- Exclusion of IPs from the project planning process, stakeholder engagements, opportunities, and benefits from the project.

Further, given that the employment opportunities that will be created from the project interventions, labour influx into project areas may give rise to risks related to the interaction between project workers, local communities, and IPs, such as transmission of communicable diseases, and sexual exploitation and abuse and sexual harassment (SEA/SH). Processes for managing these risks are guided by national legislation, and the ESS2 on Labour and Working Conditions, and ESS4 on Community Health and Safety. Measures to mitigate these risks arising from labor influx will be outlined in the project's Labor Management Plan (LMP) which will include requirement for workers to sign a Workers Code of Conduct (CoC) and for workers to receive awareness raising training on the CoC. A

Workers CoC will also be a requirement for contractor bidding documents and included in Contractor environmental and social management plans.

Whilst the project may have some adverse impact on indigenous communities, it also expected that IP communities will experience positive impacts due to various project interventions, including through improved access to safe water supply.

After finalization of the relevant ESIA's and the impacts on the IPs are identified, the project will develop a separate IPDP which may include some IP specific programs which will be prepared and implemented to minimize adverse impacts whilst maximizing project benefits to IPs. These program activities are proposed based on the assessment of project impacts, both positive and negative, and on the consultation and feedback of concerns and requests from IP communities.

1.5 Implementation of COVID-19 Protocols

The COVID-19 pandemic brings additional health and safety risks and challenges to the project due to the risk of COVID-19 transmission amongst workers and with IPs communities as well as host community. The state has developed COVID-19 protocols or control measures such as physical distancing, use of masks, methods of hand washing, restriction on public meetings and gatherings. It is imperative to assess and mitigate the risks of COVID transmission among the workers and local communities including IP communities and to provide a safe environment for project workers and local communities. As a first step, all project workers including the PMU, Municipal Environmental and Social Units, and contractors will (i) adhere to all COVID control protocols put in place by government authorities, (ii) where necessary, prepare and implement site-specific measures (as part of the project occupational health and safety (OHS) plan) to mitigate the risks of COVID transmission among workers and with IPs households and communities; (iii) promote measures for preventing the spread of COVID among host communities. As part of E&S screening, contractors will assess the risks of COVID transmission before undertaking project activities: site access, construction of labour camps, consultations with project stakeholders, and based on the assessment, ensure that basic COVID-19 protocols are observed such as maintaining social distancing and practicing safe hygiene. The Environmental and Social units at the municipality level will appoint a focal point for COVID-19 and coordinate site specific measures with local health authorities and community leaders. The World Bank's Technical notes and draft protocols may be referenced for further guidance on the assessment and management of COVID-19 risks at construction sites.

2: SITUATION OF IP COMMUNITIES IN THE PROJECT AREA

Under ESS7, the term “Indigenous Peoples” (IPs) is used in a generic sense to refer exclusively to a distinct social and cultural group possessing the following characteristics in varying degrees:

- a) Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; and
- b) Collective attachment to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resource in these areas; and
- c) Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and
- d) A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

In Nepal, indigenous communities are known as *Adivasi/Janjati* in Nepali and Indigenous Nationalities in English as per the National Foundation for Upliftment of Adivasi/Janjati Act 2002. The Act defines indigenous people as “those ethnic groups and communities as those who have their own mother language and traditional rites and customs, distinct cultural identity, distinct social structure and written or unwritten history”. The National Foundation for the Development of Indigenous Nationalities (NFDIN), created through this Act, recognizes 59 different nationalities as indigenous/ethnic and which live across geographic regions of Nepal. According to the National Population and Housing Census 2011, the indigenous nationalities comprise 36 percent of the total population of Nepal, or about 10.7 million.

These groups as a whole are generally considered to be a marginalized segment of the population who engage in economic activities ranging from hunting/gathering and shifting agriculture in or near forests, to wage laborers or undertaking small-scale market-oriented activities. However, indigenous nationalities among themselves are diverse groups who do not all come under one economic system. There are disparities among different indigenous groups in Nepal. While groups such as Rautes are still engaged in hunting and collecting food, Chepangs and Kusundas practice slash and burn, shifting cultivation and depend mainly on natural resources. On the other hand, Newars, Thakalis and Gurungs are more exposed to modernity and are involved in foreign employment, government and non-government services, industry, and commerce.

The Nepal Federation of Indigenous Nationalities (NEFIN), a non-government umbrella organization of 59 nationalities established in 1991 and which advocates for the indigenous collective rights and identity, has classified the 59 IP groups into five categories of marginalization: Endangered; Highly Marginalized; Marginalized, Disadvantaged; and Advantaged. The categorization is on the basis of a composite index consisting of literacy,

housing, land holdings, occupation, language, education, and population size. Table 1 provides the number of IP groups per category and also their geographic location.

Table 1: Classification of Indigenous Nationalities in Nepal

Region	Endangered	Highly Marginalized	Marginalized	Disadvantaged	Advantaged
Mountain (17)	-	<ul style="list-style-type: none"> ▪ Shiyar ▪ Shingsawa (Lhomi) ▪ Thudam 	<ul style="list-style-type: none"> ▪ Bhote ▪ Dolpo ▪ Larke ▪ Lhopa ▪ Mugali ▪ Topkegola ▪ Walung 	<ul style="list-style-type: none"> ▪ Bara Gaunie ▪ Byansi (Sauka) ▪ Chhairotan ▪ Marphali Thakali ▪ Sherpa ▪ Tangbe ▪ Tingaule Thakali 	Thakali
Hill (24)	<ul style="list-style-type: none"> ▪ Bankariya ▪ Hayu ▪ Kusbadiya ▪ Kusunda ▪ Lepcha ▪ Surel 	<ul style="list-style-type: none"> ▪ Baramu ▪ Thami (Thangmi) ▪ Chepang 	<ul style="list-style-type: none"> ▪ Bhujel ▪ Dura ▪ Pahari ▪ Phree ▪ Sunuwar ▪ Tamang 	<ul style="list-style-type: none"> ▪ Chhantyal ▪ Gurung (Tamu) ▪ Jirel ▪ Limbu (Yakthung) ▪ Magar ▪ Rai ▪ Yakkha ▪ Hyolmo 	Newar
Inner Terai (7)	<ul style="list-style-type: none"> ▪ Raji ▪ Raute 	<ul style="list-style-type: none"> ▪ Bote ▪ Danuwar ▪ Majhi 	<ul style="list-style-type: none"> ▪ Darai ▪ Kumal 	-	-
Terai (11)	<ul style="list-style-type: none"> ▪ Kisan ▪ Meche (Bodo) 	<ul style="list-style-type: none"> ▪ Dhanuk (Rajbansi) ▪ Jhangad ▪ Santhal (Satar) 	<ul style="list-style-type: none"> ▪ Dhimal ▪ Gangai ▪ Rajbanshi ▪ Tajpuriya ▪ Tharu 	-	-
Total (59)	10	12	20	15	2

Source: NEFIN, 2004

The information below provides a snapshot of IP populations in the two provinces targeted under the project, based on information provided in the 2011 Census:

Karnali Province: In Birendranagar Municipality of Surket District, which has a population of approximately 100,000, Chhetris are the largest social group comprising 27 percent of the municipal population. Indigenous populations comprise 22.6 percent. In Sharada of Salyan District, a second key target area which has a population of approximately 34,000, IPs comprise only 9.5 percent of the population whereas Chhetris comprise 62.6 percent.

Sudurpashchim Province: In Joshipur Rural Municipality in Kailali District, with a population of 36,459³, IPs comprise 80.5 percent of the population. The next largest groups are Chhetri (8.7 percent) and Dalits (4.8 percent). In Janaki Rural Municipality, also in Kailali District, with a total population of 48,540, IPs comprise 62.3 percent compared with the next largest groups being Dalits (11.4 percent) and Brahmin-Hill (10.1 percent).

The indigenous communities of the project areas although belonging to a different ethnicity and/or group share a common approach to their economic and livelihood activities. These groups will experience similar impacts from the project as part of a mosaic community.

³ Source: <https://joshipurmun.gov.np/content/>

3: LEGAL, POLICY AND REGULATORY FRAMEWORKS

3.1 National and international laws and policies

(a) National legal framework

National legislation recognizing and promoting the rights of indigenous communities include the below:

Constitution of Nepal 2015 includes various provisions to protect and promote indigenous rights and culture. For example, Article 18(3) provides that the State shall not discriminate citizens on the grounds of caste and tribe (amongst other grounds). Further, Article 51(j) provides that the State shall pursue social policies and inclusion to “make the indigenous nationalities participate in decisions concerning the community by making special provisions for opportunities and benefits in order to ensure the rights of these nationalities to live with dignity, along with their identity, and protect and promote traditional knowledge, skill, culture, social tradition and experience of the indigenous nationalities and local communities.” The Constitution also established a body named the Indigenous Nationalities Commission to promote the development of indigenous nationalities.

National Foundation for Upliftment of Adivasi/Janjati Act 2002 established the first comprehensive policy and institutional framework pertaining to Adivasis/Janajatis. As discussed above, the Act defines indigenous groups or Adivasi Janajati as "a group or community having its own territory, own mother tongue, traditional rites and customs, distinct cultural identity, distinct social structure and written or unwritten history".

Local Government Operation Act 2017 commits municipalities for the promotion, preservation, and protection of language, religion, culture of indigenous people and their welfare in the municipal area. The Act empowers municipalities to formulate and implement periodical and annual plans within their own jurisdiction. Periodic plans integrate different thematic plans according to social, economic, environment, physical, financial, and institutional aspects.

(b) International instruments

In terms of international instruments, Nepal is a signatory to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007) and a party to International Labor Organization (ILO) Convention (169) of 1989. Articles 1-4 of UNDRIP ensures the individual and collective rights of indigenous peoples, as well as their rights to culture, identity, language, employment, health, education, and other issues while implementing any development activities in the traditional territory of the IPs. ILO Convention No. 169 is the most comprehensive legally binding treaty on the rights of indigenous people. The Convention includes provisions on cultural integrity, land and resources rights, and non-discrimination, and instructs states to consult indigenous people in all decisions affecting them. Further, the International Convention on the Elimination of All Forms of Racial Discrimination 1965, the International Covenant on Civil and

Political Rights 1966, and the International Covenant on Economic, Social and Cultural Rights 1966, all to which Nepal is a party, state the right to self-determination.

3.2 World Bank Environmental and Social Standards

The World Bank's ESS7 on Indigenous Peoples seeks to ensure that Indigenous Peoples present in, or with collective attachment to, the project area are fully consulted about, and have the opportunity to actively participate in, project design and the determination of project implementation arrangements. In projects such as the Nepal Water Governance and Infrastructure Project, where indigenous peoples are not the sole beneficiaries, the project will be designed and implemented in a manner that provides affected IPs with equitable access to project benefits. The concerns or preferences of IPs will be addressed through meaningful consultation and project design, and will summarize the consultation results and describe how IP issues have been addressed in project design. A time-bound plan will be prepared to set out the measures or actions proposed.⁴

Further, ESS7 provides that adverse impacts on IPs will be avoided where possible, and where unavoidable, these impacts will be mitigated or compensated in a culturally appropriate manner proportionate to the nature and scale of such impacts and the form and degree of vulnerability of the affected IPs. Identification of mitigation measures will be undertaken in consultation with the affected IPs, which will include cultural impacts as well as physical impacts.

Free and Prior Informed Consent (FPIC)

In recognition of the vulnerability of IPs to adverse impacts on, or access to, their land, natural resources, or cultural heritage, a process of free, prior and informed consent (FPIC) will need to be undertaken in certain circumstances. FPIC has emerged as an international human rights standard that recognizes the collective rights of indigenous peoples to self-determination and to their lands and territories. FPIC is usually considered as a collective right of indigenous peoples to make decisions through their own freely chosen representatives and customary or other institutions and to give or withhold their consent prior to the approval by government, industry or other outside party of any project that may affect the lands, territories, and resources that they customarily own, occupy or otherwise use. It is thus not a stand-alone right but an expression of a wider set of human rights protections that secure indigenous peoples' rights to control their lives, livelihoods, lands and other rights and freedoms.

Although Nepal does not have an explicit legal and policy provision on FPIC, the Constitution of Nepal 2015, Article 51, Sub article J (8) has some implicit elements requiring FPIC of Indigenous Nationalities while making any decisions concerning these people. The essence of this constitutional provision is to ensure the indigenous nationalities

⁴ See paras 16-17, ESS7

participate in decisions concerning their community by making special provisions for opportunities and benefits in order to ensure the right of these peoples to live with dignity, along with their identity, and to protect and promote traditional knowledge, skills, culture, social traditions and experience of the indigenous nationalities and local communities.

There are three circumstances under which FPIC, as provided in paragraph 24 of ESS7, will be required, where the project will:

- (a) Have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation
- (b) Cause relocation of IPs from land and natural resources subject to traditional ownership or under customary law or occupation; or
- (c) Have significant impacts on IPs cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected IPs lives.

The Nepal Water Governance and Infrastructure Project is only expected to require a minimal amount of land and any land taking is not likely to require physical displacement of IPs. Given that project activities will not impact land or natural resources of IPs groups, nor cause the relocation of IPs, nor cause any impacts to IP cultural heritage, as per the circumstances listed above, FPIC will not be required. All subprojects will undergo screening, and as per the Exclusion List provided in the project's ESMF, any projects which require obtaining FPIC from IPs will be screened out and will not be eligible for support under the project.

3.3 Gaps between national legislation and WB policy

The main gap between existing national legislation and WB policy on IPs relates to the lack of specific requirements in national legislation for development projects in IP areas. Specifically, existing national laws:

- (a) do not include requirements for social assessments to focus on IP populations during project preparation
- (b) do not include provision for preparation of IP plans in conjunction with the project or to link the project with local government IP development plans; and
- (c) do not provide a requirement for FPIC for projects in IP areas.

To bridge these gaps, the project will include assessment of IP populations as part of screening and social assessment and will require preparation of IPDPs where screening and assessment for subprojects find IPs present in, or have a collective attachment to the project area. As noted above, subprojects for which screening finds that FPIC is required will not be supported under the project.

4: PREPARATION OF THE INDIGENOUS PEOPLES DEVELOPMENT PLAN (IPDP)

4.1 Steps for IPDP preparation

An IPDP will be prepared if the environmental and social assessment for a subproject determines that IPs are present in, or have collective attachment to, the subproject area. The steps for preparing an IPDP are as follows:

- i. Undertake screening to identify whether IP communities are present in, or have collective attachment, to the subproject area
- ii. Complete social assessment and analysis to determine the social concerns of the sub-project area from identified IP groups
- iii. Identify the views of the affected IP communities at each stage of the subproject, and particularly during project preparation
- iv. Undertake meaningful consultation, making sure that such consultation activities are documented (i.e. meeting minutes) with key highlights on discussions and key agreements.
- v. Determine the institutional arrangements, including capacity building requirements where necessary, for screening project-supported activities, assessing their impacts on IPs
- vi. Prepare the IPDP, obtain clearance from the World Bank, and publicly disclose the IPDP
- vii. Conduct monitoring and reporting through subproject implementation, including addressing any grievances.

Screening

During the planning and design phase of the subproject, a screening will be carried out, based on group discussions with the communities in the sub project area, to identify the presence of any IP communities or any collective attachment to land in the subproject area. Apart from consultations with community members, consultations and in-depth interviews will also be carried out with non-government organizations (NGOs) working in the area including NGOs which represent indigenous groups, and with representatives in the participating municipalities. The screening will assess whether there are any IP communities in proposed sub project area. If so, issues concerning the IP community will be further considered and assessed as part of the ESIA.

Environmental and Social Impact Assessment

The project will be responsible for conducting the ESIA and will develop an action plan, in consultation with IP communities and other relevant stakeholders including IP representative groups. The ESIA will gather relevant information on demographic, social,

cultural, and economic aspects of the IP communities. Discussions will focus on both positive and negative impacts of the sub project on IP communities. For indigenous people, stakeholder engagement is generally better expressed when conducted in partnership with indigenous peoples' organizations and traditional authorities. The concerns, suggestions and feedback of IPs undertaken through meaningful consultations will be incorporated into project design, and specifically in the design of rehabilitated or constructed water supply schemes, and into the IPDP, as well as measures to ensure that IPs have equitable access to project benefits.

4.3 Suggested format for the IPDP

The suggested format for the IPDP is as follows:

- Summary of targeted social assessment, including the applicable legal and institutional framework and baseline data. Baseline data to include: gender disaggregated data on the number of IP communities by impact category; social, economic profile of the communities; land tenure information; cultural heritage of IPs
- Description of sub projects and impacts on IP communities
- Summary of the results of meaningful consultations tailored to IP communities.
- Findings of the needs assessment of the IP communities
- Community development plan based on the results of need assessment
- Modalities to ensure regular and meaningful engagement with the community
- Institutional arrangements and linkages with other national or state level programs
- Institutional mechanisms for monitoring and evaluation of IPDP implementation and grievance redress
- Implementation schedule and cost estimate for IPDP implementation

Further details outlining the main elements required in an IPDP are provided at Annex 1.

4.4 Sub-Project Approval

In the event that the sub-project has IP groups in its subproject area, the project shall not approve the subproject until a satisfactory IPDP has been prepared and shared with the affected IP community. In the circumstance that a standalone IPDP is not needed because the majority of beneficiaries of the subcomponent are specific IP HHs, the project design should ensure that all elements of ESS7 are incorporated into the sub-project design as recommended by ESIA.

5: IMPLEMENTATION ARRANGEMENTS

All three government levels, Federal, Provincial and Local, will have responsibilities for implementing the Nepal Water Governance and Infrastructure Project:

5.1 Organizational structure to implement Indigenous Instruments

Federal Level: The Ministry of Water Supply (MoWS) will be responsible for overall coordination and management of the project. An Intergovernmental Project Steering Committee (PSC), led by the Secretary of the MoWS, will be set up with one of its major tasks will be to ensure collaboration and coordination between the three tiers of government and other key stakeholders. A Project Management Unit (PMU) will be set up under MoWS, at the Department of Water Supply and Sewerage Management (DWSSM) and will be responsible for overall financial management and reporting, along with channeling the resources to the implementing agencies at the local levels and will also be responsible for the implementation of Component 1. The PMU will be supported by a Federal Project Support Team (FPST). The PMU has recruited a Social Development Specialist who will assume overall responsibility for effective implementation of the IPPF, including preparation of IPDPs, monitoring activities under the IPPF/IPDPs, and reporting quarterly on the implementation of the IPPF/IPDPs. The Social Development Specialist will be assisted by an Environmental Development Specialist who leads the implementation of the environmental impact assessment and management of environmental issues.

Provincial Level: Intergovernmental Project Steering Committees (PSCs) will be established at the provincial levels with representation from federal, provincial and all participating local levels. Provincial Ministries of Physical Infrastructure Development will provide technical backstopping and support to municipalities for the implementation of Components 2 and 3. The Soil Conservation and Watershed Management Office of the Karnali province will provide technical support on watershed management and conservation activities under Component 3.

Local Level (participating municipalities): The Municipal Social Development Unit (and later municipality WASH units yet to be established) will be responsible for the implementation of social risk management activities including preparation and implementation of IPDPs. This includes identifying IP communities as part of screening and assessment, undertaking consultations and engagements with IP communities, and managing project-related complaints received from IP communities. Existing staff at the social development units will be trained by the World Bank, and units without staff will be supported by the project to recruit dedicated E&S staff to be responsible for the implementation of the planned activities in this IPPF and for the preparation of IPDPs. In effect, the E&S staff at the participating municipality will be responsible for managing E&S issues of the project at the local level, with technical support and guidance from the E&S specialists at the PMU. In addition to providing monthly IPPF/IPDP implementation and status reports to the E&S safeguard specialist at the DoWSSW, the E&S staff together with current heads of the various Water Supply Users Committees (and later WASH units when established) chief will be responsible for reporting and helping to manage any sensitive incidents to the E&S

safeguard specialist at the DoWSSW. The organizational structure will be reviewed periodically to ensure the effectiveness of IPPF/IPDP implementation.

The IPDP will have, as applicable, its own budget. A detailed budget will be prepared taking into account all activities associated with the formulation and implementation of the IPDP. The budget will include cost associated with recommended program activities, human resource cost, monitoring and other associated cost. Such budgets will be an integral part of the project cost, to be included in the cost item in the IPDP. The budget will be made available during project implementation. The project will ensure that an adequate budget is available to implement the IPDP.

5.2 The roles and responsibilities of units/agencies and individuals

The roles and responsibilities of key agencies/units envisaged for the implementation and operation of the project (especially as they related to IP aspects) are shown in the table below.

Table 2: Roles and Responsibility of Related Units/Agencies

Key units/agencies	Roles and responsibilities
Project Steering Committee (PSC)	<ul style="list-style-type: none"> • Ensuring collaboration and coordination between the three tiers of government and other key stakeholders.
PMU (DoWSSM-based)	<ul style="list-style-type: none"> • Planning, budgeting, and ensuring the implementation of IPDPs throughout the project lifecycle: <ul style="list-style-type: none"> ○ Coordinate and monitor IPDP activities with the partnering municipalities. ○ Collate IPDP-related activities from the partnering municipalities along with their performances and outcomes. ○ Undertaking periodic monitoring of IPDPs, and preparation and dissemination of quarterly IPDPs implementation report. • Ensuring necessary financial and human resources at all three levels for effective implementation of E&S management plans including IPDPs • Ensuring the project activities as per the various guidelines and directives issued by the government and other related organizations, including COVID-19 management protocols. • Ensuring effective management and reporting of project-related complaints and grievances as per the project GRM.
Province level Intergovernmental Project Steering Committees (PSCs)	<ul style="list-style-type: none"> • Liaising with PMU staff to support and monitor Local Level activities. • Monitor progress of project activities in the field.

Provincial Ministries of Physical Infrastructure Development	<ul style="list-style-type: none"> • Providing technical backstopping and support to municipalities for the implementation of Components 2 and 3, taking into consideration community concerns
Social Development Units at Municipal Assemblies (and later WASH units when constituted)	<ul style="list-style-type: none"> • Lead the implementation of stakeholder consultation activities at the community level, including consultations with IPs • Supporting the PMU in identifying IPs as part of stakeholder identification of the project at the local level and updating the list of stakeholders. • Mobilizing and organizing local stakeholders for consultation and project engagement activities • Disseminating project-related information in a timely manner. • Managing and ensuring the smooth functioning of the Level-1 GRM. • Reporting (monthly) on IPDP, SEP and GRM to PMU
Host/Local community	<ul style="list-style-type: none"> • Participate in consultations and information disclosure programs • Provide feedback on project related documents disclosed for public scrutiny • Use GRM to report any grievances and complaints

Table 3: Roles and Responsibilities of Individual/expert

Key staff/expert	Responsibilities
Project manager (PMU- DoWSSM)	<ul style="list-style-type: none"> • Responsible for monitoring and supervising the overall implementation of the IPPF, including managing financial resources and supporting logistics, and preparing and disseminating quarterly implementation reports.
E&S Safeguards specialist (PMU- DoWSSM)	<ul style="list-style-type: none"> • Responsible for the overall implementation of IP instruments and preparation of IPDPs including periodic consultations, information disclosure, and effective functioning of the GRM. • Coordinate the IP related consultations among the provincial agencies and Local Levels. • Updating the IPPF to accommodate any changes and take corrective actions immediately as and when required. • Preparing quarterly implementation reports and submit to the World Bank office through the PMU
E&S Staff (participating Municipalities)	<ul style="list-style-type: none"> • Support the PMU in the preparation and implementation of IPDPs • Hold periodic consultations with stakeholders, including IP communities and vulnerable groups and prepare meeting minutes.

	<ul style="list-style-type: none">• Disseminate project-related information to the local-level stakeholders through available means, taking into consideration special requirements for IP communities• Receive and acknowledge grievances and maintain a logbook/electronic database of grievances and status.• Support the local municipalities to ensure smooth functioning of Level- 1 grievances.• Report on the status of grievances to the E&S Safeguard Specialists at the PMU at DoWSSM and forward unsolved grievances to Level 2.• Provide data and field-level information related to IPDP activities to the Social Safeguard Specialist of the PMU at the DoWSSM.• Support E&S Safeguard Specialists to prepare quarterly IPDP implementation reports as required.
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6: STAKEHOLDER ENGAGEMENT, DISCLOSURE, AND GRIEVANCE MECHANISM

6.1 Stakeholder engagement and information disclosure

The development of IPDPs will follow a participatory approach to enable IPs to have a role in the project planning and development process. Once detailed design is finalized, the detailed project activities and location of the IP communities and impacts on IPs community will be determined. IPs that will be impacted due to the implementation of the project will be consulted in order to understand and collect their views on their needs, priorities, and preference regarding the project interventions. Separate focus group discussions will be held with indigenous communities to assess the project impacts and benefits to these groups. Based on ESIA findings, IPDPs will be prepared with the feedback from consultation that takes into account their views, concerns, requests and recommendations. The Stakeholder Engagement Plan (SEP) developed for the Nepal Water Governance and Infrastructure Project identifies all the project stakeholders, including indigenous groups, and provides a plan for meaningful stakeholder engagement throughout the project lifecycle.

IPDP implementation will continue this participatory approach to enable meaningful consultation and effective participation of IPs. The IPPF includes a strategy for the ongoing involvement of IPs in project preparation and implementation. Core components of this strategy are (a) the representation of IPs in IPPF/IPDP implementation structures; (b) a grievance management system for the resolution of grievances and disputes; and (c) monitoring and evaluation mechanisms to track implementation issues. The detailed implementation plans will be developed jointly with the indigenous communities. In particular, the project team will work with them on designing and implementing plans for the design of rehabilitation and/or construction of local level WASH schemes. For household-specific schemes and activities, the project team will work with individual households belonging to indigenous people to develop and implement their household-specific schemes.

Outcomes of IPDPs developed for indigenous communities will be disseminated using appropriate means of communication. The Nepal Water Governance and Infrastructure Project will use a range of communication/information dissemination mechanisms, including written documents (information sheets and newsletters), Social Media, FM radio broadcasts through local radio stations, community meetings, FGDs, participatory appraisal techniques, household interviews and social mobilization techniques. Information will be disseminated in local languages as appropriate to maximize reach to indigenous groups. A key focus of these consultations will be project impact mitigation measures. These topics will be further discussed extensively to ensure that IPs are aware of the different compensation and impact mitigation measures so that they can make informed choices. In particular, it will be important for the indigenous peoples to have an understanding of the following (in the unlikely event that these impacts occur):

- Entitlements for the loss of private assets (land, trees and other assets)
- Entitlements for the loss of access to communal resources subject to traditional ownership or occupation
- Entitlements for the loss of culturally significant and historical ancient monuments and temples
- Entitlement eligibility criteria.

The project will adopt mainstreaming and targeted approaches to maximize the project benefits and opportunities for indigenous people.

Mainstreaming approach includes increased participation and proportionate representation of indigenous communities in various user groups and committees formed under the project promoted and sponsored social development activities so that their needs, priorities, interests and perspectives are reflected in project planning and implementation.

In the event that the project provides livelihood enhancement opportunities, a targeted approach will cater indigenous people to enable them to take full advantage of project opportunities and benefit, including employment opportunities. Livelihood enhancement skills training will be targeted to these groups on the basis of their specific needs and priorities.

6.2 Grievance Redress Mechanism

The Nepal Water Governance and Infrastructure Project will establish and maintain a grievance redress mechanism (GRM) to enable the update, management and resolution of project-related grievances, including grievances from IP communities. The project will ensure that all grievances are documented, with clear responsibilities, escalation processes, and timelines for resolution. In the case of indigenous peoples, the project will adopt a culturally appropriate and accessible means by which IPs can lodge grievances for redress, taking into account their customary dispute mechanisms and any other needs and requirements. The grievant will be notified about the decision through appropriate means. The GRM will be functional throughout the project cycle. Further details regarding the process and functioning of the project GRM is outlined in the SEP.

7: MONITORING AND EVALUATION OF IPDP

A monitoring and evaluation program will be implemented to: (i) record and assess project inputs and the number of IP communities assisted; and (ii) confirm that former living standards have been increased or maintained from project activities. The implementation of the IPDP will be monitored both internally and externally with the objective of providing feedback to management on implementation of the IPDP and to identify problems and successes as early as possible to facilitate timely adjustment of implementation arrangements.

The Municipal Social Development Unit (and later municipality WASH units yet to be established) will establish a quarterly monitoring system involving project staff, implementing NGOs, affected IPs communities, and local organizations of the IPs communities to ensure participatory monitoring arrangements. A set of monitoring indicators will be developed during IPDP implementation. Appropriate monitoring formats will be developed for effective internal and external monitoring and reporting requirements. In particular, the monitoring aims:

- To ensure that the standard of living of IPs groups are maintained or improved;
- To monitor whether the timelines of the activities planned in the IPDP are being met;
- To assess if social uplift measures or social development support program are sufficient;
- To identify problems or potential problems; and
- To identify measures of responding immediately to mitigate problems.

Monitoring indicators are in principle the same as identified in the IPPF applying two monitoring mechanisms i.e. ongoing internal monitoring of process and output indicators; and external monitoring by an independent monitoring agency or establishing social audit system to assess the extent to which IPDP objectives have been met.

For effective monitoring of the project impacts on the IPs groups, the socio-economic baseline established for the project will serve as comparative basis to cross-check and to verify project-induced impacts (positive and negative) on representative IPs households. Monitoring indicators will include IP households as specific indicators, and monitoring reports will present data accordingly. Indicators that can be monitored for this purpose will include how many IPs participated actively in project activities, documentation of their opinions on project impacts and if any of their specific concerns were addressed during implementation.

Regular monitoring of IPDP implementation will be conducted by the PMU at the central level to verify:

- Actions and commitments described in the IPDP are implemented fully on time;
- IPDP actions and mitigation measures are effective in sustainably enhancing or maintaining the living standards and income levels of IPs;

- Complaints and grievances lodged by IPs are followed up and that where necessary, appropriate corrective actions are implemented; and
- If necessary, changes in IPDP procedure are made to improve delivery planned action to IPs.

The PMU will prepare the monitoring and evaluation report of IPDP and will submit the report to the World Bank on a quarterly basis.

ANNEX 1: OUTLINE OF ELEMENTS IN AN IPDP

In most cases, an Indigenous Peoples Development Plan (IPDP) includes the following elements, as needed:

- a. A summary of the targeted social assessment, including the applicable legal and institutional framework and baseline data.
- b. A summary of the results of the meaningful consultation tailored to IPs, and if the project involves the three circumstances specified in paragraph 24 of ESS7, then the outcome of the process of FPIC carried out with the affected IPs during project preparation.
- c. A framework for meaningful consultation tailored to IPs during project implementation.
- d. Measures for ensuring IPs receive social and economic benefits that are culturally appropriate and gender sensitive and steps for implementing them. If necessary, this may call for measures to enhance the capacity of the project implementing agencies.
- e. Measures to avoid, minimize, mitigate, or compensate IPs for any potential adverse impacts that were identified in the social assessment, and steps for implementing them.
- f. The cost estimates, financing plan, schedule, and roles and responsibilities for implementing the IPDP.
- g. Accessible procedures appropriate to the project to address grievances by the affected IPs arising from project implementation, as described in paragraph 35 of ESS7 and in ESS10.
- h. Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPDP, including ways to consider input from project-affected IPDP in such mechanisms.