



Government of Nepal

Ministry of Physical Infrastructure and Transport (MoPIT)
&
Ministry of Industries, Commerce, and Supplies (MoICS)
&
Ministry of Forests and Environment (MoFE)

**Bangladesh-Bhutan-India-Nepal (BBIN) Multi-phase
Programmatic Approach (MPA) Regional Transport
and Trade Facilitation Program**

Indigenous Peoples Planning Framework (IPPF)

April 2022

ACRONYMS AND ABBREVIATIONS

AJ	Adhibasi/Janajati (Indigenous Peoples)
ASYCUDA	Automated System for Customs Data
ABMS	Automated Border Management System
BG	Butwal-Gorusinghe
BBIN	Bangladesh-Bhutan-India-Nepal
CBO	Community-Based Organization
CSC	Construction Supervision Consultant
CF	Community Forest
DCID	Development Cooperation Implementation Divisions
DOR	Department of Road
ESA	Environmental and Social Assessment
EIA	Environmental Impact Assessment
ESF	Environmental and Social Framework
ESIA	Environmental and Social Impact Assessment
ESS	Environmental and Social Standard
FPIC	Free, Prior and Informed Consent (FPIC)
FGD	Focus Group Discussions
GBV	Gender Based Violence
GRM	Grievance Redress Mechanism
GRC	Grievance Redress Committee
GoN	Government of Nepal
IPs	Indigenous People
IPDP	Indigenous Peoples Development Plan
IPPF	Indigenous Peoples Planning Framework
LAA	Land Acquisition Act
LMP	Labor Management Plan
MoPIT	Ministry of Physical Infrastructure and Transport
MoICS	Ministry of Industry Commerce and Supplies
MoF	Ministry of Finance
PCU	Project Coordination Unit

ROW	Right of Way
RAP	Resettlement Action Plan
SEP	Stakeholder Engament Plan
WB	World Bank

TABLE OF CONTENTS

Acronyms and Abbreviations	2
Executive Summary.....	6
Chapter- 1: Introduction	19
1.1 Program Background & Project Description	19
1.2 Project Locations	20
1.3 Key Activities Proposed under the Project	21
1.4 Project Implementation Arrangements	22
3.1 Objectives and Scope of IPPF.....	23
3.2 Potential Issues and Impacts on IPs and Mitigation Approaches	24
Chapter-2: Situation of IPs in the Project Area	28
2.1 Definition of IPs.....	28
2.2 Status of Indigenous Peoples’ Issue in Nepal & Project Area	29
Chapter-3 Regulatory Frameworks.....	32
3.1 Government of Nepal Laws and Policy Provisions	32
3.2 International Instruments Ratified by GoN.....	34
3.3 Requirement of Free Prior Informed Consent (FPIC) from the affected IPs	34
3.3.1 The Constitution of Nepal (2015).....	34
3.3.2 National Forest Policy (BS 2075) [2018] & Work Policy 2006.....	35
3.3.3 FPIC Obligations under International Instruments Ratified by GoN	35
Chapter-4 Preparation of the IPDP	39
4.1 Steps for IPDP Preparation	39
4.1.1 Screening.....	39
4.1.2 Social Impact Assessment	39
4.1.3 Preparation of IPDP.....	40
4.2 Suggested Format and Contents for the IPDP.....	40
4.3 Sub-Project Approval.....	41
Chapter-5 Implementation Arrangement FoR IPPF/IPDP	42
5.1 Organizational Structure to Implement the IPDP	42
5.1.1 Project Coordination Unit (PCU).....	42
5.1.2 Project Site office.....	43

5.2	The Roles and Responsibilities of Units/Agencies and individuals.....	43
5.3	Approval and Implementation Schedule for the IPDP.....	44
5.4	Implementation of the Specific Measures to IPs.....	46
5.5	Cost Estimate and Financing for the IPDP	47
Chapter-6 Stakeholder Engagement, Disclosure, and grievance mechanism		48
6.1	Engagement with IPs and other Stakeholders.....	48
6.2	Disclosure and Dissemination Strategies.....	49
6.3	Grievance Redress Mechanism.....	50
Chapter-7 Monitoring and Evaluation of IPDP		53
Annex 1: Outline of elements in an IPDP		55

List of Tables

Table 2.1	Distribution of AJ Groups s in Ecological Region by their Stages of Development.....	30
Table 2.2	Categorization of AJ Peoples in the Project Area by their Sages of Development	31
Table 5.1	Roles and Responsibility of Related Units/Agencies	43
Table 5.2	Milestones for IPDP Implementation Schedule.....	45
Table 5. 3	Generic Measures for Indigenous People.....	46

List of Figure

Figure 1	Location of Butwal – Goringhe- Chanauta Road Section in Nepal.....	21
Figure 2:	Box 1 Category of Developmental Stages of Indigenous Peoples by NEFIN, 2005.....	29
Figure 3	E&S Implementation Arrangements of BBIN 1.....	42
Figure 4	GRM System BBIN1.....	51

EXECUTIVE SUMMARY

Introduction

This Indigenous Peoples Planning Framework (IPPF) outlines the policy, process and procedures to assess project impacts on Indigenous Peoples (IPs) under the Phase 1 of the Bangladesh-Bhutan-India-Nepal (BBIN) Multiphase Programmatic Approach (MPA) Regional Transport and Trade Facilitation Program under World Bank financing. The main objective of the Project is to support the more cost-efficient and resilient movement of goods and people within and across the borders of Nepal along the East-West Highway on the western side – which is key to access India’s western seaports and thus for economic growth. The trade component of the program aims to enhance efficiency of cross-border trade by upgrading of trade facilities such as land ports at critical location. The project will also support resilient and green infrastructure development along the East West Highway corridor that serves as the backbone for Nepal’s physical and economic integration with the BBIN sub-region. This IPPF has been developed since the exact locations and scale of impacts from these project activities have not yet determined. The IPPF has been prepared according to the standards of GoN legislation and policy, and to the World Bank’s Environmental and Social Standard (ESS) 7 on Indigenous People. During project implementation, if site-specific project environmental and social impact assessments (ESIAs) confirm that IPs will be affected by the project, an Indigenous Peoples Development Plan (IPDP) will be prepared according to this IPPF.

Potential Issues and Impacts on Indigenous Peoples

It is estimated that about 41% of the population in the project area belong to AJ i.e., IPs whereas the rest 59% belong to high and mid caste Hindus, Dalits, Muslim and different caste groups of Madeshi Peoples. Among the AJ, BBIN-1 ESMF has stated that groups like Magar, Gurung, Newar, Kumal and Tharu are currently inhabiting in and around the project areas. Among the AJ groups found in the project areas, Tharus are the autochthonous to the southern plain areas (Tarai & Inner Tarai) of Nepal from east to west whereas the Gurungs and Magars were migrated to the area from Hill and the Kumals from Inner Tarai after irradiation of malaria during the 1960s. The Newar are found in every part of the country (Nepal). They are considered the original inhabitants of Kathmandu valley, the capital city of Nepal.

Whilst the project may have some adverse impact on indigenous communities, it has been assessed that they will also experience some positive impacts due to various development interventions such as improved road access and trade facilities through green development and conservation approach will create employment and supply chain opportunities for IPs and local communities. All potential environment and social impacts will be assessed and appropriate mitigation measures will be recommended in the ESMP along with a standalone IPDP (if required) while ESIA/IEE of trade and green conservation component will be carried out. The BBIN1 ESMF (2022) stated some risks and impacts including: loss of traditional sense of

identity; disruption of community structure and livelihood; violation of traditionally-exercised land rights causing loss of sources of income; health and social problems and impact on landscape and natural features with cultural significance-- may be imposed to IPs, if the activities under these components will be poorly planned and implemented.

Legal, Policy and Regulatory Frameworks

Nepal does not have a specific policy on Indigenous Peoples affected by development projects. However, there are numerous legal provisions for protection of Indigenous Peoples' rights and interests in Nepal. The key legislations with progressive provisions for protection of AJ people's rights include: The Constitution of Nepal 2072 BS (2015 AD); National Foundation for Upliftment of Adivasi/Janjati Act, 2058 (2002 AD); Policy on Land Acquisition, Resettlement and Rehabilitation for the Infrastructure Development Projects (2015); Local Government Operation Act 2074 BS (2017 AD) and Forest Act, 2076 (2019). In addition, successive Five-Year Plans have placed significant emphasis on delivering basic services to the Indigenous Peoples and protection and promotion of traditional knowledge and cultural heritage of AJ peoples.

Government of Nepal bears obligations under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007) and International Labor Organization (ILO) Convention 169 (1989), of which GoN is a signatory. While UNDRIP sets a universal framework of minimum standards for the survival, dignity, wellbeing and rights of the world's indigenous peoples, the ILO Convention 169 is the most comprehensive legally binding treaty on the rights of indigenous peoples. The World Bank ESS on indigenous peoples, ESS7, underscores the need for the project to identify indigenous peoples, consult with them, ensure that they participate in, and benefit from WB-funded operations in a culturally appropriate way, and that adverse impacts on them are avoided, or where not feasible, minimized or mitigated.

Requirements of Free and Prior Informed Consent (FPIC)

The concept of free, prior and informed consent (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.

Whilst Nepal legislation does not include any 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 Forest Policy 2018 (section 8.8) requires FPIC (स्वतन्त्रपूर्वसूचितसहमति) from affected communities before implementing any projects in forest areas. Work Policy to Make Forest Land Available

for Other Purposes BS 2063 (2006) issued by MoFE lays out procedures for obtaining consent from CFUG Executive Committee as well as the General Assembly of CFUG for conversion of CF Lands for any infrastructure development.

FPIC criteria has been elaborated under ESS7. However, the BBIN-1 project activities are not expected to require FPIC given that project activities are unlikely to cause adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation, relocate any IP community from their location with collective attachment, nor have any significant impact on the cultural practice/ heritage sites, ceremonial or spiritual aspects of affected IP communities. With detailed design and ESIA studies, any adverse impacts on IPs to the extent where FPIC has to be obtained will be identified and screened out.

Preparation of the Indigenous People Development Plan (IPDP)

An IPDP will be prepared if the subprojects 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 Mitigation Plan (ESMP) with the help of IP communities and organizations working for them. The ESIA will gather relevant information on demographic, social, cultural, economic and networking aspects of IPs. The suggestion and feedback of the community taken through meaningful consultation will be incorporated into the project design to help ensure the broader IP support for the project. The IPDP will be prepared based on findings of the ESIA, with feedback from consultation and addressing views, concerns, requests and recommendations of IPs.

Implementation Arrangement

The overall BBIN 1 implementation will be under the oversight of the Ministry of Physical Infrastructure and Transport (MoPIT) in coordination with the Ministry and Finance (MoF) and Ministry of Industries, Commerce and Supplies MoICS. The road upgrading works will be implemented by DOR, and trade-related works will be implemented by MOICS. The DCID in the DOR will act as the PCU, and a new PCU will be established in the MOICS. The PCUs will hire environmental and social staff for implementation of the ESMF, hire environmental and social consultants to prepare the required E&S instruments such as ESIA, RAP, IPDP, and IEE/EIA needed for the World Bank and government approvals. PCU will also ensure that the contractors will have adequate environmental, social, health and safety (ESHS) specialists for implementation of the subprojects.

Stakeholder Engagement, Public Consultation and Disclosure

The development of the IPPF and 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 and IP households will be confirmed as detailed design is finalized. IPs that may be impacted due to the implementation of

the project will be consulted on an individual basis, and in group discussions and meetings, 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.

Grievance Redress Mechanism

As explained in detail in the project SEP prepared as per the ESS 10, the project will establish a Grievance Redress Mechanism to allow affected IPs and other related stakeholders to appeal any disagreeable decisions, practices, and activities that may arise during preparation and implementation of the IPDP. The IPs will be made fully aware of their rights and the procedures for filing the complaints and grievances verbally and in writing during the planning, designing and implementation of IPDP and other plan of activities targeted to IPs. The project's GRM is at no cost to complainants and guarantees that there will be no retribution for people who lodge complaints on project activities. Furthermore, the grievance mechanism will not impede access to judicial and administrative remedies. To ensure a functioning GRM, the project has envisaged a two-tier project GRM system, one at the project level, and one at the Central PCU level. The project level GRC will record all the grievances at site office, will analyze and resolve the grievances. Any unresolved grievances at local level will then be submitted to the central level GRC for further action with its recommendation. The central level GRC will take the decision of the grievance and sent the decision to the project level GRC for disclosure to the complaining parties. The GRM will be functional throughout the project cycle.

Monitoring and Evaluation of IPDP

Regular monitoring of IPDP implementation will be conducted by PCUs and project sites offices with support from the construction, supervision consultant team. PCUs 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.

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CHAPTER- 1: INTRODUCTION

1.1 Program Background & Project Description

The BBIN Regional Transport and Trade Facilitation Program - Phase 1 (Bangladesh and Nepal) is a ten-year IDA/IBRD-funded project under the Multiphase Programmatic Approach (MPA) comprises 4 phases and is designed to improve the conditions for trade in Bangladesh and Nepal by augmenting infrastructure, technology and processes for regional transport and trade facilitation. It is expected that the project will help to achieve a broader aim of reducing trade and transport cost in the sub-region by developing efficient and resilient regional trade and transport in the BBIN countries.

The Government of Nepal is preparing the BBIN MPA Regional Transport and Trade Facilitation Program - Phase 1 (BBIN 1) for World Bank financing. The first phase of the program comprises following components:

- **Component 1: Digital Systems for trade.** This component may support the adoption and Implementation of Digital and Automated Systems for improvement of Nepal's cross-border clearances: (a) Development of electronic Automated Border Management including electronic cargo tracking system, (b) Business Intelligence and Data Analytics Package and Risk Engine (c) Development of web-based supply MIS for automation of registration processes and permits.
- **Component 2: Resilient Regional Transport and Trade Enabling Infrastructure.** In view of the climate context and to ensure a more climate-resilient and sustainable development, this Component will support resilient and green infrastructure development along the East West Highway corridor that serves as the backbone for Nepal's physical and economic integration with the BBIN sub-region. Under this component, the project will focus on developing resilient infrastructure on the Western side of the country to facilitate the development of a new transit route to gain access to India's western ports, namely Mundra Port, India's largest private port in Gujarat, and Jawaharlal Nehru Port in Mumbai, which offer the shortest transit route from western Nepal. More specifically, the component comprises following activities in Nepal:
 - Upgrading of Butwal-Gorusinghe-Chanauta section of East-West Highway from 2 to 4 lanes
 - Construction of a Green Resilient Urban Bridge (including detailed design/urban design and construction)
 - Support for development and implementation of green resilient highway concept, integrating transportation functionality and ecological sustainability
- **Component 3: Capacity building.** This component will provide support in streamlining the policy environment for regional trade and cross-border movement of goods through (a) Bangladesh-India-Nepal Motor Vehicle Agreement related reforms, (b) Customs

reforms, (c) Private sector support initiatives, (d) Capacity Strengthening, and (e) Project preparation studies.

This Indigenous Peoples Planning Framework (IPPF) provides the policy, process, and procedures to inform the preparation of Indigenous Peoples Development Plans (IDPD) in relation to the upgrading of Butwal-Gorusinghe-Chanauta section of East-West Highway from 2 to 4 lanes (under Component 2 Enhancing Regional Transport and Trade Enabling Infrastructure, and in relation to Component 1 Establishment of new and enhancement of existing trade facilitation system and infrastructures. The feasibility and ESIA study for Butwal-Gorusinghe (BG) road section is completed whereas the feasibility study along with ESIA for Gorusinghe-Chanauta road section is yet to be carried out. Draft Environmental and Social Impact Assessment (ESIA) for BG road and Project Environment and Social Management Framework (ESMF) have been prepared. The detailed designs of trade facilitation works are yet to be finalized and the specific locations of these investments are unknown. During project implementation, when site-specific project ESIAs are developed, IPDPs will be prepared according to this IPPF. The IPPF has been prepared in accordance with GoN and the World Bank's Environmental and Social Standard (ESS) 7 on Indigenous Peoples. The IPPF is developed at this stage of project given that the exact scale of impacts of project activities have not yet been determined.

1.2 Project Locations

The project will finance the first 70 km (Butwal – Gorusinghe-Chanauta) of a phased construction of the 438 km western section (Butwal to Gaddachowki) of the East-West Highway, a key corridor for Nepal's connectivity and trade with India and other countries. This road section is 50 km in length and located in the Terai region of Lumbini province. Butwal - Gorusinghe Road Section of the East-West Highway starts from the Tinau Bridge at Butwal of Rupandehi district and passes through Butwal sub-metro-Politian city, Sinamaina Municipality, Kanchan Rural Municipality, Banganga Municipality and Buddhabhumi Municipality and ends at Gorusinghe of Kapilbastu district. The major settlements along the road include, Batauli bazar, MainaBagar, Nayagaun, Belbas, Nayabasti, Bankatahawa, Murgiya, Rampur. Basgadi, Saljhandi, Fireland, Pipra, Badgaun, Jitpur and Gorusinghe Bazar. The project area lies between 27°42'14.80"N Latitude and 83° 27'36.87"E Longitude at Butwal to 27°39'18.85"N Latitude and 83° 0'2.79"E longitude at Gorusinghe. A location map showing the Butwal to Chanauta section in Nepal is given in Figure 1 below.

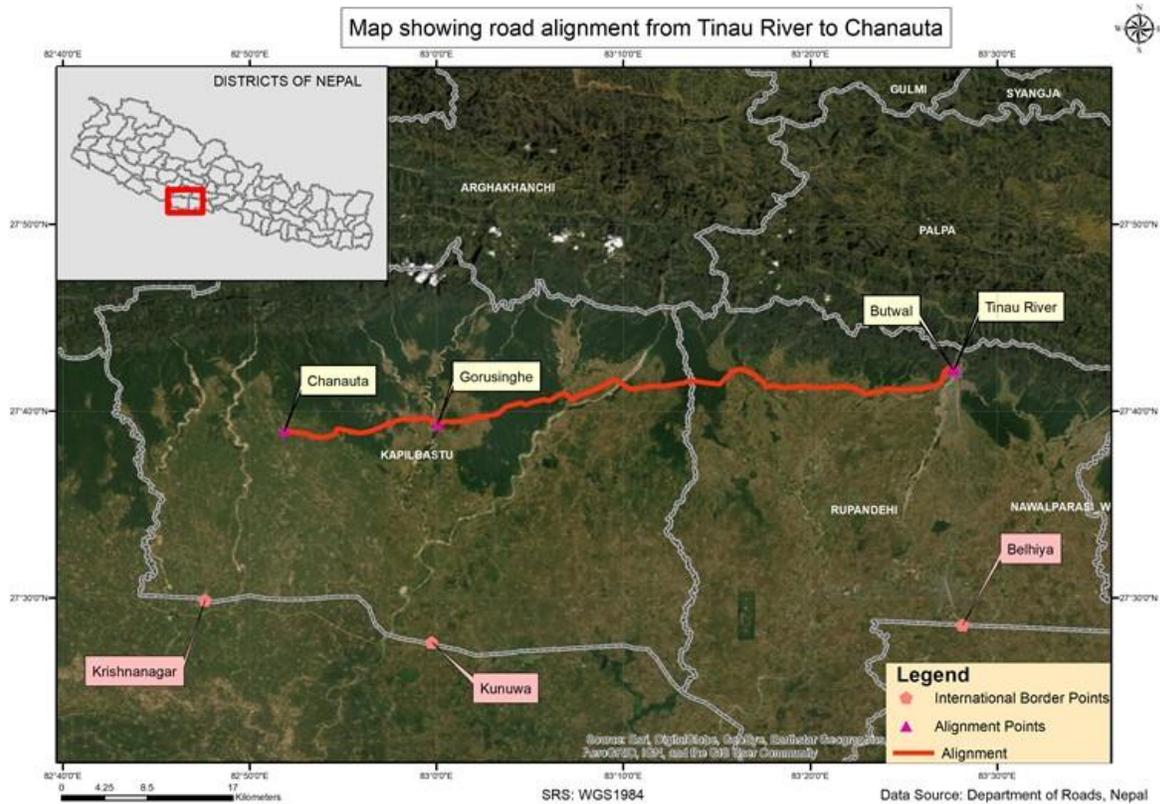


Figure 1 Location of Butwal – Goringhe- Chanauta Road Section in Nepal

1.3 Key Activities Proposed under the Project

Road Component

A summary of the main physical works proposed under the project is as follows:

- Widening of 50 km Butwal-Goringhe (BG) Road from 2 lanes to 4 lanes
- Construction of service roads on both sides of the carriage way in semi-urban areas
- Construction of footpaths, pedestrian sheds, cycle lanes and service roads on both sides of the carriage way in urban areas
- Construction of 31 new bridges with lengths varying from 10 to 100 m.

The feasibility study for this road section is completed. Draft Environmental and Social Impact Assessment (ESIA) for BG road and Project Environment and Social Management Framework (ESMF) have been prepared and Resettlement Action Plan (RAP) is being prepared for BG section.

Goringhe- Chanauta is a 20 km-long road section, connected to the above Butwal-Goringhe road section. This road will also be upgraded from 2 lanes to 4 lanes. The feasibility study along with ESIA for this road section is yet to be carried out.

A green resilient urban bridge will be constructed on a river that the East-West Highway crosses. The location of a green resilient urban bridge will be selected based on the feasibility studies. The objective of the green resilient urban bridge, with additional architectural and cultural value, is to help improve connectivity while enhancing both the urban quality with a safer and greener environment and the economic activity in the bridge area.

Trade Component

The overall goal of the proposed BBIN program in Nepal is to develop cost-efficient and resilient trade and transport facilities in Nepal along main selected corridors. The trade component of the program aims to enhance efficiency of cross-border trade by upgrading of trade systems.

The trade facilitation related activities are mainly included in Component 1. The Component 1 will support the transformation of the cross-border clearance ecosystem through the provision of digital and automated systems. Specifically, it will support the development of a new electronic Automated Border Management System (e-ABMS) to provide GoN with a multi-agency electronic platform for enhanced processes of all Integrated Check Posts (ICPs) and Inland Container Depots (ICDs) in Nepal. It will be common across all ICD/ICPs under the management of the NITDB. The system will enhance administrative and operational processes, such as cargo handling, storage, tariff calculation, and levy payment procedures, which contribute to the overall efficiency of cross border trade flows. The system will be interconnected with existing trade data systems (NSW, ASYCUDA). The component will further support the development of a Business Intelligence and Data Analytics Package to (i) improve statistical monitoring of revenue and trade facilitation performance, (ii) reporting of trade data and (iii) to develop a risk engine to carry out risk analysis, risk-based valuation and risk-based selectivity for Post-Clearance Audit. Lastly, it will support the development of a web-based supply Management Information System (MIS) for digitization and automation of registration processes for traders, permits and licenses for domestic trade, in order to enhance the monitoring of flow of goods.

Green/Conservation Component

The activities under this component are inclusive of road upgrading and trade facilitation and upgradation activities and will be implemented simultaneously or parallelly. But the exact activities under green/conservation component are undefined at this stage. However, some public lands or Government Forest or Community Forest lands will be used for green development and conservation initiatives under the project that could impose restriction of access to public and community resources.

1.4 Project Implementation Arrangements

- 2 The Project Coordination Units (PCU) at DCID, DoR and MoICS, that are implementing the ongoing SRCTIP, will be retained and strengthened to oversee implementation of this project, and a new PCU will be established in MoFE. Component 1 will exclusively be

implemented by MoICS' PCU. Sub-components 2(a) and 2(b) will be exclusively implemented by DCID's PCU. Sub-component 2(c) will be jointly implemented by MoFE and DCID's PCU. Sub-component 3(a) will be implemented by DCID's PCU. Sub-component 3(b) will be implemented by MoICS' PCU. Sub-component 3(c) will be implemented by DCID's PCU. Sub-component 3(d) will be jointly implemented by the PCUs in DCID, MoICS and MoFE. Sub-component 3(e) will be jointly implemented by MoICS and DCID's PCU.

- 3 The roles and responsibilities, as well as specific fiduciary, E&S management, technical and monitoring guidelines, will be detailed in the Project Operations Manual (POM). For the CERC, GoN will prepare an "Emergency Response Operations Manual" (EROM) acceptable to the Bank, which will constitute a disbursement condition for the CERC. If GoN determines that an eligible crisis or emergency has occurred, and the Bank has agreed and notified the government, GoN may request the Bank to re-allocate project funds to this component to support its quick response and reconstruction. Details on implementation arrangements are provided in Annex 1, including the project financing breakdown by component and by IA.

3.1 Objectives and Scope of IPPF

This Indigenous Peoples Planning Framework (IPPF) clarifies the principles, procedures, and implementation arrangements to screen and assess likely impacts and to ensure culturally appropriate benefits for indigenous communities. The IPPF provide guidelines and procedures to be followed to ensure that affected IPs and local communities (i) receive culturally appropriate social and economic benefits; (ii) do not suffer adverse impacts (avoid negative effects on the IP communities) as a result of the project; (iii) when negative impacts cannot be avoided, provide measures to minimize/mitigate or compensate for the damage caused by the project activities and (iv) ensure that IPs can participate actively in the project.

The principal objectives of the IPPF are to:

1. ensure that the project undertakes consultations with IP communities wherever they are affected
2. Obtain free, prior and informed Consent (FPIC) from IP communities, as required
3. ensure that project benefits are accessible to IP communities living in the project area
4. avoid any adverse impacts on IP communities to the maximum extent possible and if unavoidable ensure that adverse impacts are minimized and mitigated
5. ensure the participation of IP communities in the entire process of preparation, implementation and monitoring of sub-project activities
6. minimize further social and economic imbalances within IP communities; and

7. develop the appropriate training / income generation activities in accordance with IPs own defined needs and priorities.

This IPPF will be applicable for the BBIN Regional Transport and Trade Facilitation Program - Phase 1 in Nepal while implementing the Components 1&2 (digital systems development and upgrading of roads at critical locations)) which are inclusive of green infrastructure development through conservation approach implemented jointly by the Ministry of Physical Infrastructure and Transport (MoPIT)&Ministry of Industries, Commerce, and Supplies (MoICS) under the financial support of the World Bank.

This Indigenous Peoples Planning Framework (IPPF) has been developed to guide selection, planning and implementation of the subprojects under the road and trade components including green development /conservation subprojects. Since the exact scale, scope, and locations of project activities to be implemented are not yet determined, details of the investments will be determined when the relevant feasibility studies as well as Environmental and Social Studies are conducted during the detail design phase. Once the exact activities and locations of the subprojects are defined and impacts on IPs are identified, an Indigenous Peoples Development Plan (IPDP) proportionate to potential risks and impacts will be developed in line with this IPPF. Physical displacement or eviction or resettlement of IP communities is not expected and will be strictly avoided. A screening procedure will be followed during the detail designing and project planning process to avoid physical displacement or resettlement of IP communities. However, in unavoidable circumstances, Project activities that cause physical and/or economic displacement will not commence until such specific IPDP has been finalized by DCID/MoPIT&PCU/MoICS and approved by the World Bank.

3.2 Potential Issues and Impacts on IPs and Mitigation Approaches

The potential risks and impacts related to IPs from the proposed upgrading of road and trade infrastructure through green development and conservation approach have been primary assessed based on available information and knowledge of the existing corridor. However, as the feasibility study is ongoing and detailed design has not commenced, detailed impacts have not been assessed. Based on the review of available project related documents, it is unlikely that the project will cause significant adverse impacts to land of IP communities, assuming that land acquisition is not expected. It is also unlikely to cause the relocation of IP groups from their land, and it is unlikely to have significant negative impacts to the cultural heritage of IP groups. However, some adverse impacts (as described below) to the IP communities have been anticipated due to upgrading of road and trade facilities.

Whilst the project will have some adverse impact on indigenous communities, it has been assessed that they will also experience some positive impacts due to various development interventions such as improved road access and trade facilities through green development and conservation approach will create employment and supply chain opportunities for IPs and local communities. All potential environment and social impacts will be assessed and appropriate

mitigation measures will be recommended in the ESMP along with a standalone IPDP (if required) while ESIA/IEE of trade and green conservation component will be carried out. However, according to BBIN1 ESMF (2022) following risks and impact may be imposed to IPs, if the activities under these components will be poorly planned and implemented:

Disruption of Community Structure and Livelihood: Indigenous people engage in economic activities that range from shifting agriculture in or near forests to wage labor or even small-scale market-oriented activities. The cultural, social, political, and economic integrity that characterizes indigenous peoples renders their lives vulnerable to disruptions from outside. Whether a road is being planned to cross an area inhabited by indigenous peoples or to open up that same area, it will have a marked effect on their lives. The Introduction of faster traffic, access controls, and median barriers generally cuts traditional lines of communication. Alternative routes for local movements provided after new construction can sometimes be substantially longer, directly affecting businesses, pedestrians, and users of non-motorized transport. The burden of accommodating to changes is generally greater for the poor. In rural areas, the normal links between villagers and their farmlands may be cut by a new road or increased traffic.

Loss of Traditional Sense of Identity: For many traditional groups, the land is an inextricable part of themselves, their lifestyle, and their livelihood. Flora and fauna are typically considered beings that are an integral part of their cosmos. Thus, the very definition of self is bound up with the land, and its flora and fauna, in a manner often alien to outsiders. Roads and trade infrastructure can too easily disrupt this sense of identity and may lead to an ecological imbalance when the local population loses responsibility for their proper environment.

Loss of Livelihoods and Violation of Traditionally-exercised Land Rights: New and improved roads and trade facilities bring increased contact with outside people, who either occupy the land for farming or exploit other resources such as minerals, forests, or wildlife. The increased competition for existing resources can put the indigenous people at a disadvantage, especially when the settlers introduce ecologically inappropriate and unsustainable production systems. Often indigenous people have no recognized land ownership, and they are not compensated for the land that is taken from them. Rather than fight for their rights in an alien national legal system, they may withdraw from the new population centers, thus increasing the population pressures on another, already traditionally occupied land. In extreme cases, physical conflicts can break out between settlers and the host communities when the latter try to reclaim their heritage and traditional rights.

Health and Social Problems: The new arrivals, as well as the road and trade facility construction crews, often bring with them health and social problems, including endemic diseases, sexually transmitted diseases, violence, crime, alcohol abuse and other conflicts that destabilize traditional lifestyles and can take a heavy toll among relatively isolated indigenous people.

Impact on collectively owned/ used land by IPs: The collectively owned or used land (including forest, community forest, pasture, or grassland) and water sources (streams, river) are key natural resources on which the livelihoods of Indigenous peoples and local communities of the project area depend heavily. Some changes in the biodiversity they support is expected due to construction activities. Forests provides food, timber, and medicinal herbs. The construction of road and trade infrastructure along with green development and conservation activities in forest lands, particularly in community forests¹ without ensuring ownership and using rights could result access restriction of IPs from common and traditional natural resources.

Impact on Landscape and natural features with cultural significance: In addition to the livelihood, cultural practices of IPs are also linked to the natural features and landscape they inhabit. The cutting of hill slopes, loss of forest and vegetation during construction of road and trade facilities will bring permanent changes in the landscape and may impact the aesthetic value of current landscape. Besides, local IP communities revere forest-based deities in the project area. Several tree species are considered sacred, and components of many plant species are used in rituals and cultural festivals.

The general principle that should be followed throughout the BBIN Program is to avoid to the maximum extent, any significant impacts on IPs, and where avoidance is not possible, reducing, mitigating and managing these potential adverse impacts.

Any impacts of physical and economic displacement, restriction of access to homes and shops as a result of the project implementation will be mitigated as per the Resettlement Action Plan (RAP) prepared to comply WB ESS5 and GoN LAA as per project RPF and ESMF.

Labor influx in project areas is also expected and assessed as a risk. Specific requirements to manage risks associated with labor influx, related to the interaction between project workers, local communities, and IPs, such as communicable diseases and gender-based violence most specifically sexual exploitation and abuse and sexual harassment, will be managed through contractual requirements, code of conduct and training for project workers as set out in E&S documents for the project. These procedures are guided by national legislation, and WB ESF ESS2 and ESS4. Measures to address impacts resulting from labor influx are specified in the project's Labor Management Plan (LMP).

GBV risk assessment for the project is moderate, indicating the potential for labor to create or exacerbate patterns of GBV, SEA/SH risks. A large influx of male labor may lead to an increase in exploitative sexual relationships and human trafficking whereby women and girls are forced into sex work. This can lead to inappropriate and criminal behavior, such as sexual harassment of

¹The Forest Act of 2076 BS (2019) empowers the local people through a participatory decision-making process (organized through CFUGs) and benefit distribution generated from community forest managements. The CFUG under this legal framework is a self- governing, empowered local institution. Community Forestry (CF) is now a popular approach for landscape restoration, forest management, biodiversity conservation, and support for rural livelihoods. For example, small farmers practice subsistence farming and rely heavily on forests for grass and fodder to feed their livestock, collect leaf litter to use on their farms, and collect firewood which is the main source of energy for cooking and heating.

women and girls, exploitative sexual relations, and illicit sexual relations with minors from the local community in general and IP community, in particular.

Community health and safety is likely to be a major concern especially during construction, and may include potential for increase in traffic accidents, exposure to increased noise, dust, construction material and waste, and potential transmission of communicable diseases among community members as they interact with workers. The PCU has corporate requirements for contractor training and safety which will apply to contracts and sites under the project, and as part of the ESMF/Pswill include basic training and measures to educate communities on traffic safety and on how to manage worker-community relationship.

After finalization of the relevant ESIA (for Gurusinghe-Chanauta road and other investments) and the impact on the IPs are identified, the project will develop a separate IPDP, if necessary, with specific programs for IPs which will be prepared and implemented to minimize adverse impacts whilst maximizing project benefits to IPs. These program activities will be 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.

CHAPTER-2: SITUATION OF Ips IN THE PROJECT AREA

2.1 Definition of IPs

As per ESS7 of WB's ESF, 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.

The indigenous groups in Nepal are defined as social groups with a social and cultural identity distinct from the dominant society. The National Foundation for Upliftment of Adivasi/Janjati Act (2002) defines those ethnic groups and communities who have their own mother language and traditional rites and customs, distinct cultural identity, distinct social structure and written or unwritten history. The Act has recognized 59 indigenous communities in Nepal having following characteristics:

- A distinct collective identity,
- Own language, religion, tradition, culture and civilization,
- Own traditional egalitarian social structure,
- Traditional homeland or geographical area,
- Written or oral history,
- Having 'We' feeling,
- Has had no decisive role in the politics and government of modern Nepal,
- Who are the indigenous or native peoples of Nepal, and
- Who declares itself as 'Janajati'

These indigenous communities are known as *Adivasi/Janjati* (AJ) in Nepali and Indigenous Nationalities in English as per the Act. 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, *Adivasi/Janajati* among themselves are diverse groups who do not all come under one economic system.

2.2 Status of Indigenous Peoples' Issue in Nepal & Project Area

Until 1990, Indigenous Peoples' separate identities and concerns were largely ignored in Nepal. This position shifted with political change in 1990. Gradually, representatives from Indigenous Peoples, scholars and academic groups highlighted the socio-economic discrepancies between dominant groups and Indigenous Peoples and demanded special attention for them. Nepal's IPs communities concerns and demands focused on issues of governance and equitable political representation. They also sought greater equality in linguistic rights and guaranteed access to common properties/resources.

The total population of IPs groups is 35% of the total population of Nepal (CBS, 2011). They live across the country – the mountains, the hills and the plains (Table 1). Historically, many of these AJ groups used to occupy a particular habitat or territory but nowadays many of them have migrated to different parts of the country. They are in the majority in terms of population in as many as 27 of 75 districts in Nepal.

The Indigenous Peoples in Nepal are not a homogenous group and there are socioeconomic disparities among different groups. Considering such prevailing diversity and disparity, the Nepal Federation of Indigenous Nationalities (NEFIN), an umbrella organization of Nepal's Indigenous Peoples Organizations (IPOs), has classified these 59 IPs groups recognized by the Government, into five categories in 2005 based on a set of socioeconomic indicators²: 'endangered', 'highly marginalized', 'marginalized', 'disadvantaged' and 'advantaged' (Box 1)

Figure 2: Box 1 Category of Developmental Stages of Indigenous Peoples by NEFIN, 2005

- | |
|---|
| <p>1. Endangered Group: Kusunda; Bankariya; Raute; Surel; Hayu; Raji; Kisan; Lepcha; Meche; and Kusbadiya</p> <p>2. Highly marginalized Group: Majhi; Siyar; Lohmi; Thudam; Dhanuk; Chepang; Satar (Santhal); Jhagad; Thami; Bote; Danuwar; and Baramu</p> <p>3. Marginalized Group: Sunuwar; Tharu; Tamang; Bhujel; Kumal; Rajbansi; Gangai; Dhimal; Bhote; Darai; Tajpuriya; Pahari; Topkegola; Dolpo; Free; Mugal; Larke; Lohpa; Dura; and Walung</p> <p>4. Disadvantaged Group: Chhairotan; Tangbe; Tinganule Thakali; Bargaule; Marphali Thakali; Gurung; Magar; Rai; Limbu; Sherpa; Yakkha; Chhantyal; Jirel; Byansi; and Yolmo</p> <p>5. Advanced Group: Newar and Thakali.</p> |
|---|

Furthermore, the Table 1 depicts the distribution of 59 AJ groups by their level of development stages and ecological regions of the country.

² Such as literacy and education, income, wealth, land holding and other assets

Table 2.1 Distribution of AJ Groups in Ecological Region by their Stages of Development

Region	Distribution of AJ Groups				
	Endangered (10)	Highly Marginalized (12)	Marginalized (20)	Disadvantaged (15)	Advantaged (2)
Mountain (18)		<i>Shiyar, Shingsawa (Lhomi), and Thudam</i>	<i>Bote, Dolpo, Larke, Lhopa, Mugali, Tokpegola, and Walung</i>	<i>Bara Gaule, Byansi (Sauka), Chhairotan, MaparphaliThakali, Sherpa, Tangbe, and TingaunleThakali</i>	<i>Thakali</i>
Hill (24)	<i>Bankariya, Hayu, Kusbadiya, Kusunda, Lepcha, and Surel</i>	<i>Baramu, Thami (Thangmi), and Chepang</i>	<i>Bhujel, Dura, Pahari, Phree, Sunuwar, and Tamang</i>	<i>Chhantyal, Gurung (Tamu), Jirel, Limbu(Yakthumba) Magar, Rai, Yakkha, &Hyolmo</i>	<i>Newar</i>
Inner Terai (7)	<i>RajianRaute</i>	<i>Bote, Danuwar, and Majhi</i>	<i>Darai, and Kumal</i>		
Terai (10)	<i>Kisan, and Meche (Bodo)</i>	<i>Dhanuk(Rajbansi), Jhangad, and Santhal (Satar)</i>	<i>Dhimal, Gangai, Rajbansi (Koch), Tajpuriyaand Tharu</i>		

Source: NEFIN, 2005

The BBIB1 ESMF (2022) has estimated that about 41% of the population in the project area belong to AJ i.e. IPs whereas the rest 59 % belong to high and mid caste Hindus, Dalits, Muslim and different caste groups of Madeshi Peoples. Among the AJ, the ESMF has stated that groups like Magar, Gurung, Newar, Kumal and Tharu are currently inhabiting in and around the project areas.

Table 2.2 Categorization of AJ Peoples in the Project Area by their Stages of Development

Stages of Development Marginalization	Name of IPs Group
Endangered	NONE
Highly Marginalized	NONE
Marginalized	Tharu&Kumal
Disadvantaged	Gurung &Magar
Advantaged	Newar

Source: Nepal Federation of Indigenous Nationalities (NEFIN), 2005; BBIN1 ESMF (2022)

Among the AJ groups found in the project areas, Tharus are the autochthonous to the southern plain areas (Tarai& Inner Tarai) of Nepal from east to west whereas the Gurungs and Magars were migrated to the area from Hill and the Kumals from Inner Tarai after irradiation of malaria during the 1960s. The Newar are found in every part of the country (Nepal). They are considered to be the original inhabitants of Kathmandu valley, the capital city of Nepal.

Like other communities in the area, the AJ peoples depend on subsistence agriculture supplemented with livestock husbandry. Families who do not have sufficient income also engage in daily wage labor in both agricultural and non-agricultural sectors. During the planting and harvesting season, people work as agricultural labor in the field and during other seasons they work in construction as porters, masons, carpenters, or similar labor in the village and beyond. The earning for the daily work helps to meet their income needs. Some families also received remittances from family members working outside the village. Some people have small shops and other business activities besides farming.

Thus, the proposed project area is a mixed type of community and there are no homogenous settlements for any particular group. The indigenous (Adivasi Janjati) communities of the project area although belong 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.

CHAPTER-3 REGULATORY FRAMEWORKS

The Project needs to comply with the laws of Nepal, and the policies and procedures established by Government of Nepal (GoN) and World Bank for Indigenous Peoples. This section provides a brief overview of requirements under these applicable legal and policy framework

3.1 Government of Nepal Laws and Policy Provisions

Nepal does not have a specific policy on Indigenous Peoples affected by development projects. However, there are numerous legal provisions for protection of Indigenous Peoples' rights and interests in Nepal. The key legislations with progressive provisions for protection of AJ people's rights in chronological order are as follows:

- The Constitution of Nepal 2072 BS (2015 AD);
- National Foundation for Upliftment of Adivasi/Janjati Act, 2058 (2002 AD)
- Policy on Land Acquisition, Resettlement and Rehabilitation for the Infrastructure Development Projects (2015)
- Local Government Operation Act 2074 BS (2017 AD),
- Forest Act, 2076 (2019)

In addition, successive Five-Year Plans have placed significant emphasis on delivering basic services to the Indigenous Peoples and protection and promotion of traditional knowledge and cultural heritage of AJ peoples.

The Constitution of Nepal 2072 BS (2015): Article 18 - Right to Equality, states that all citizens shall be equal before law. No person shall be denied the equal protection of law. However, the article also mentions that nothing shall be deemed to bar the making of special provisions by law for the protection, empowerment or advancement of AJ including other vulnerable communities. Article 51 (J) (iii) mentions the following provisions for social justice and inclusion that are applicable for Indigenous Peoples and vulnerable groups:

- Making special arrangements to ensure the rights of AJ to lead a dignified life with their respective identities;
- Making them participate in decision making processes that concern them;
- Preserving and maintaining their traditional knowledge, skill, culture and social practices; and
- Making special arrangements so that they are able to exercise their social and cultural rights by maintaining their identity.

Article 261 of the Constitution of Nepal 2072 BS, (2015 AD) requires an Indigenous and Nationalities Commission (INC) of Nepal to be created to look into the matters of AJ people of Nepal.

National Foundation for Development of Indigenous Nationalities (NFDIN) Act 2058 BS (2002): The act was enacted with a view to develop social, economic and cultural aspects of Indigenous Peoples, and to enhance their equal participation in the mainstream of national development. The act has provided the first comprehensive policy and institutional framework regarding Indigenous Peoples in Nepal. It has been working for the preservation of the languages, cultures, and empowerment of the marginalized ethnic nationalities. According to Act, NFDIN has the following specific objectives, quoted directly from the Act:

1. “To make overall development of the Adivasi/ Janajati by formulating and implementing the social, educational, economic and cultural programs.
2. To preserve and promote the language, script, culture, literature, arts, history of the Adivasi/ Janajati.
3. To preserve and promote the traditional knowledge, skill, technology and special knowledge of the Adivasi/ Janajati and to help in its vocational use.
4. To encourage the Adivasi/ Janajati to be participated in the mainstream of overall national development of the country by maintaining a good relation, goodwill, and harmony between different Adivasi/ Janajati, castes, tribes and communities.
5. To help in building an equitable society by making social, economic, religious and cultural development and upliftment of Adivasi/ Janajati.”

The Forest Act of 2076 BS (2019): The act empowers the local communities through a participatory decision-making process (organized through CFUGs) and benefit distribution generated from community forest managements. The CFUG under this legal framework is a self-governing, empowered local institution. Community Forestry (CF) is now a popular approach for landscape restoration, forest management, biodiversity conservation, and support for rural livelihoods. For example, small farmers practice subsistence farming and rely heavily on forests for grass and fodder to feed their livestock, collect leaf litter to use on their farms, and collect firewood which is the main source of energy for cooking and heating.

Whilst the current policy and regulatory provisions are broadly supportive of Indigenous Peoples, there are still important regulatory gaps and governance challenges that need to be addressed. In Nepal’s federal structure, power has been divided between three tiers of government, each of which has autonomy to formulate policies and acts, and collect and spend revenue. The promotion and development of IPs is a concurrent obligation and responsibility across the three levels of government in the new constitution. Currently, the local governments bear the responsibilities for service delivery and overall development of their constituency, but lack specialized capacity to deal with the various development agendas of IPs.

3.2 International Instruments Ratified by GoN

Government of Nepal bears obligations under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007) and International Labor Organization (ILO) Convention 169 (1989), of which GoN is a signatory.

UNDRIP sets a universal framework of minimum standards for the survival, dignity, wellbeing and rights of the world's indigenous peoples. The declaration affirms the basic rights of indigenous peoples: the right to self-determination, the right to equality and non-discrimination, the right to cultural integrity, the rights over the lands, territories, and natural resources, the right to self-government and autonomy, the right to free, prior, and informed consent (FPIC). UNDRIP Articles 1-4 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 indigenous people. Similarly, Article 25 states that the "indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters".

ILO Convention 169 is the most comprehensive legally binding treaty on the rights of indigenous peoples. The convention includes provisions on cultural integrity, land and resource rights and non-discrimination, and instructs states to consult indigenous peoples in all decisions affecting them. The ILO Convention No.169, Article 14(1) states that "the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized". ILO Convention No. 169 also calls for state parties and the governments to consult with the peoples concerned with regard to legislative or administrative measures that may directly affect them, and establishes the right of these peoples to participate in decision-making processes regarding policies and programs related to them.

3.3 Requirement of Free Prior Informed Consent (FPIC) from the affected IPs

3.3.1 The Constitution of Nepal (2015)

The Constitution of Nepal, Article 51, Sub Article J (8) requires obtaining consent of Indigenous Nationalities while making any decisions concerning these people. The Sub Article J (8) mentions "to make the Indigenous Nationalities 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 protect and promote traditional knowledge, skill, culture, social tradition and experience of the Indigenous Nationalities and local communities". The essence of this provision is to ensure participation of Indigenous Nationalities in the decisions concerning their community. However, Nepal Government has not passed any Act or set any procedure for obtaining such consent.

3.3.2 National Forest Policy (BS 2075) [2018] & Work Policy 2006

Nepal adopted a new National Forestry Policy in BS 2075 (2018) with the vision to contribute social, economic and cultural prosperity of the country through a “managed forest sector and balanced environmental conditions”. The Policy, in section 8.8 (Social Protection, Inclusion and Good Governance), ensures rights of Indigenous Peoples in forest resource management and to access equitable benefit sharing. The policy proposes strategic action that requires **FPIC** (स्वतन्त्रपूर्वसूचितसहमति) from affected communities before implementing any projects in forest areas.

Ministry of Forests and Environment³ (MoFE) had issued a “Work Policy to Make Forest Land Available for Other Purposes BS 2063 (2006)” which lays out procedures for obtaining consent from CFUG Executive Committee as well as the General Assembly of CFUG for conversion of CF Lands for any infrastructure development.

3.3.3 FPIC Obligations under International Instruments Ratified by GoN

The above discussed constitutional, legal and policy provisions for consultation and consent from IPs reflect Government of Nepal’s obligations under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007) and International Labor Organization (ILO) Convention 169 (1989), of which GoN is a signatory. An overview of provisions under international covenants and conventions is provided below.

UNDRIP:The United Nations Declaration on Human Right of Indigenous Peoples (UNDRIP) makes clear that states have a duty to obtain the FPIC of Indigenous Peoples for measures that may require removal of Indigenous Peoples (Article 10) or the storage of hazardous materials on indigenous lands (Article 29 (2)). Furthermore, bearing in mind the principle of self-determination and the provisions of the UNDRIP as a whole, states should obtain consent on matters of fundamental importance for the rights, survival, dignity and well-being of Indigenous Peoples. FPIC should be applied in conjunction with all decisions that may affect their rights, and this duty is bound to the state’s duty to respect Indigenous Peoples’ wider rights to be represented through their own institutions; to exercise customary law with regard to the ownership of the lands, territories and natural resources that they traditionally own, occupy or otherwise use; to self-identification; to manifest their cultures; and, more fundamentally, to self-determination.

ILO Convention 169:Similarly, the ILO Convention 169 of 1989 is the most comprehensive legally binding treaty on the rights of Indigenous Peoples. The convention includes provisions on cultural integrity, land and resource rights and non-discrimination, and instructs states to consult Indigenous Peoples in all decisions affecting them. Article 14(1) states that "the rights of ownership and possession of the concerned peoples’ over the lands which they traditionally occupy shall be recognized”. The Article 16 (1-2) further mentioned that “the peoples concerned

³ The title of the Ministry was Ministry of Forest and Soil Conservation (MoFSC) in 2006, which was renamed as Ministry of Forest and Environment (MoFE) in 2018.

shall not be removed from the lands which they occupy. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned". ILO Convention 169 also calls for state parties and the governments to consult with the peoples concerned with regard to legislative or administrative measures that may directly affect them, and establishes the right of these peoples to participate in decision-making processes regarding policies and programmes related to them.

The World Bank ESS 7: The World Bank Environment and Social Standard (ESS 7) on Indigenous Peoples recognizes Indigenous Peoples as social groups with identities that are distinct from dominant groups in national societies, are often among the most marginalized and vulnerable segments of the population. The ESS 7 underlines the requirement of avoiding/minimizing adverse impacts on Indigenous Peoples in a project area, respecting the local culture and customs, fostering good relationship and ensuring that development benefits are provided to improve their standard of living and livelihoods. It also ensures that the development process fosters full respect for the human rights, dignity, aspirations, identity, culture, and natural resource-based livelihoods of these peoples/communities. Some important and specific ESS7 objectives are:

1. To ensure that the development process fosters full respect for affected parties' human rights dignity, aspirations, identity, culture, and natural resource-based livelihoods;
2. To avoid adverse impacts of projects on Indigenous Peoples, or when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts;
3. To promote sustainable development benefits and opportunities in a manner that is accessible, culturally appropriate and inclusive
4. To improve project design and promote local support by establishing and maintaining an ongoing relationship with the affected IPs throughout the life of the Project.
5. To obtain the Free Prior and Informed Consent (FPIC) of the IPs in the three circumstances described in this ESS.
6. To recognize, respect and preserve the culture, knowledge, and practices of Indigenous Peoples, and to provide them with an opportunity to adapt to changing conditions in a manner and in a timeframe acceptable to them.

Paragraph 24 to 26 of ESS-7 mention circumstances requiring free, prior and informed consent (FPIC). The provisions for FPIC mentioned therein is quoted below:

“24. Indigenous Peoples may be particularly vulnerable to the loss of, alienation from or exploitation of their land and access to natural and cultural resources. In recognition of this vulnerability, in addition to the General Requirements of this ESS (Section A) and those set out in ESSs1 and 10, the Borrower will obtain the FPIC of

the affected Indigenous Peoples in accordance with paragraphs 25 and 26 in circumstances in which 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 Indigenous Peoples from land and natural resources subject to traditional ownership or under customary use or occupation; or
- (c) have significant impacts on Indigenous Peoples cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected Indigenous Peoples lives.

In these circumstances, the Borrower will engage independent specialists to assist in the identification of the project risks and impacts.

25. There is no universally accepted definition of FPIC. For the purposes of this ESS, FPIC is established as follows:

- (a) The scope of FPIC applies to project design, implementation arrangements and expected outcomes related to risks and impacts on the affected Indigenous Peoples;
- (b) FPIC builds on and expands the process of meaningful consultation described in ESS10 and paragraph 23 above, and will be established through good faith negotiation between the Borrower and affected Indigenous Peoples;
- (c) The Borrower will document: (i) the mutually accepted process to carry out good faith negotiations that has been agreed by the Borrower and Indigenous Peoples; and (ii) the outcome of the good faith negotiations between the Borrower and Indigenous Peoples, including all agreements reached as well as dissenting views; and
- (d) FPIC does not require unanimity and may be achieved even when individuals or groups within or among affected Indigenous Peoples explicitly disagree.

26. For the purposes of this ESS, consent refers to the collective support of affected Indigenous Peoples communities for the project activities that affect them, reached through a culturally appropriate process. It may exist even if some individuals or groups object to such project activities, as recognized by paragraph 25 (d).”

The upgrading of Road and trade infrastructures through green development and conservation approaches have not defined yet and it is expected that the road upgrading and trade facilitation works are unlikely to cause:

- Adverse impacts on the land nor natural resources subject to traditional ownership or under customary use or occupation
- The relocation of any IP community from their location with collective attachment

- Any significant impacts on the cultural practice/ heritage sites, ceremonial or spiritual aspects of affected of IP communities

However, if any of the sub projects fall within the above-mentioned criteria, the process of obtaining FPIC from IP communities will be undertaken. The ESIA carried out during detailed design will determine the extent of any impacts on IPs and whether FPIC is required and recommend the steps, processes and procedures to be followed to achieve consent from affected IP communities. As the first step of project risk mitigation hierarchy, sub-projects requiring FPIC will be screened out and alternatives will be explored to avoid such situations.

CHAPTER-4 PREPARATION OF THE IPDP

4.1 Steps for IPDP Preparation

An Indigenous People Development Plan (IPDP) will be prepared if it is determined that IPs are present in or have collective attachment to the subproject area. The steps for preparing an IPDP are as follows:

1. Screening to identify whether IP communities are present in or have collective attachment to the project area
2. Social assessment and analysis to address the social concerns of the sub-project area from identified IP groups
3. Identifying the views of the affected IP communities at each stage of the project, and particularly during project preparation
4. Where FPIC is determined to be required, conduct FPIC according to ESS7, with the FPIC process documented
5. Where FPIC is determined to not be required, meaningful consultation is needed, and with the consultation process
6. Determining institutional arrangements (including capacity building wherever necessary) for screening project-supported activities, evaluating their effects on IP, preparing IPDP (if required), and addressing grievances
7. Preparation the IPDP and obtaining approval of and disclosure by PCU and the World Bank
8. Conducting monitoring and reporting.

4.1.1 Screening

During the planning and design phase of the subproject, a screening survey will be carried out based on group discussions with the communities in the sub project area to identify the presence of any IP communities which have a collective attachment to the subproject area. Apart from consultations with community members, consultations and in-depth interviews will also be carried out with the NGOs working in the area and with representatives of local self-government. The screening will look into the details of IP households, assessing the number of such households in proposed sub project area. If the result shows that there are IP communities, issues related to the community will be included in the scope of ESIA exercise.

4.1.2 Social Impact Assessment

If the screening findings confirm likely impacts on IP/tribal communities, the project will engage qualified and experienced experts to carry out a social assessment of the affected IP/tribal families and community as a part of the site-specific ESIA. The project will be responsible for conducting the ESIA and the development of an action plan with the help of IP communities and organizations working for them. Discussions will focus on both positive and negative impacts of the sub project. The suggestions and feedbacks of the

community taken through meaningful consultations will be incorporated on the design hence to ensure the broader community support for the project. The ESIA will gather relevant information on demographic, social, cultural, economic, and networking aspects of each household and needs of the community as a whole and will assess the likely impacts on IPs. The impacts on IPs/tribal communities should be considered significant, if the project or project component positively or negatively: (i) affect their customary rights of use and access to land and natural resources; (ii) change their socio-economic status and livelihoods; (iii) affect their cultural and communal integrity; (iv) affect their health, education, sources of income and social security status; and/or (v) alter or undermine the recognition of indigenous knowledge.

4.1.3 Preparation of IPDP

Based on the findings of the social assessment, subproject specific IPDP will be prepared to address the aspirations, needs, and preferred options of the affected Indigenous communities providing them with various options of possible interventions which keep their distinctive socio-cultural status intact. The IPDP also aims to strengthen the capacity of the affected indigenous/tribal community to encourage them to participate in and derive benefits from the project interventions. 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. Targeted approach will cater indigenous people through livelihood enhancement skills training activities 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.

4.2 Suggested Format and Contents 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 number of IP households by impact category; social, cultural and economic profile of the households/communities; land tenure information
- Description of sub projects and implications for IP communities
- Summary of the results of meaningful consultations tailored to IP communities

- Summary of FPIC exercise when relevant (since FPIC is not expected to be required, consultation exercise needs to be documented)
- 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 IDPD are provided at Annex 1.

4.3 Sub-Project Approval

In the event that the sub-project has an IP group 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. When a standalone IPDP is not needed because the majority of beneficiaries of the sub project are specific IP HHs, the project design should ensure that all elements of ESS7 are incorporated into the sub-project level ESMP as recommended by ESIA.

The FPIC will be required on any matters that may affect the rights and interests, lands, resources, territories (whether titled or untitled to the people in question) and traditional livelihoods of the indigenous peoples concerned. When an FPIC process is required, a stakeholder consultation process will need to be initiated to define and agree on an FPIC process. The indigenous peoples who may be affected by the Project will have a central role in defining the FPIC process. The consultation process should be launched as early as possible to ensure full, effective and meaningful participation of Indigenous Peoples. The FPIC must be obtained before the subproject activities requiring FPIC can be started, although the focus is to screen out such activities requiring FPIC.

CHAPTER-5 IMPLEMENTATION ARRANGEMENT FOR IPPF/IPDP

5.1 Organizational Structure to Implement the IPDP

The overall BBIN 1 implementation will be under the oversight of the Ministry of Physical Infrastructure and Transport (MoPIT) in coordination with the Ministry and Finance (MoF), Ministry of Industries, Commerce and Supplies (MoICS) and Ministry of Forests and Environment.

The BBIN 1 institutional framework and environmental and social staffing arrangement within the institutions are shown in Figure below. The road works will be implemented by DOR, and trade-related activities will be implemented by MOICS. The DCID in the DOR will act as the PCU, and new PCU will be established in MOFE. The existing PCU under STRCTIP, MoICS will be strengthened. The PCUs will hire environmental and social staff for implementation of the ESMF, hire environmental and social consultants to prepare the required E&S instruments, and contractors with adequate environmental, health and safety (ESHS) specialists for implementation of the subprojects.

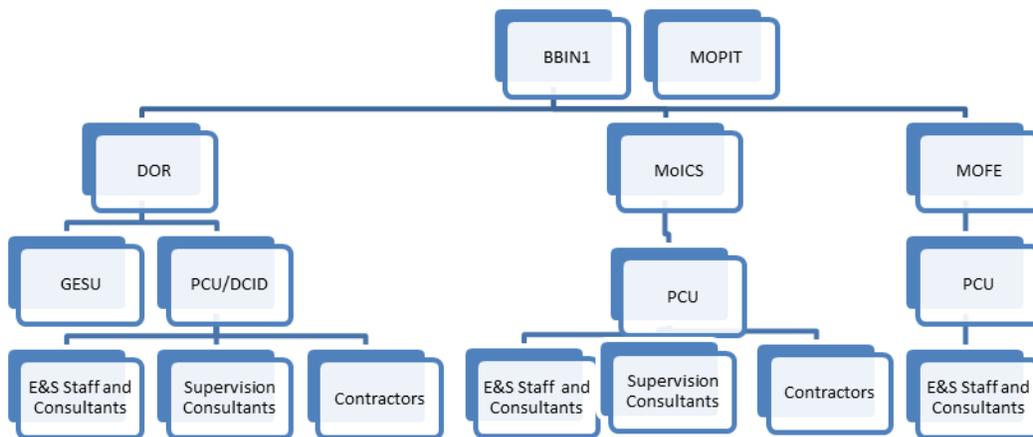


Figure 3 E&S Implementation Arrangements of BBIN 1

5.1.1 Project Coordination Unit (PCU)

At the central or federal level, a Project Coordination Unit (PCU) will be established to lead the project under MoICS and DoR responsible for trade facilitation and road component respectively. The PCUs will be tasked with the responsibility of managing E&S safeguards aspects, and undertaking all procurement and contract management activities. As stated earlier,

the PCU will recruit dedicated Social Development/ IP Specialists who will be responsible for planning, designing and implementation of the IPPF/IPDP, monitoring and reporting quarterly on the implementation of the IPDP and other relevant social management plans.

5.1.2 Project Site office

At project level, the project site office of MoCIS and concerned Division Rad Office (DRO) will be responsible to facilitate and assist PCU for planning, designing, implementation and monitoring of the IPDP including community consultations, managing project-related complaints and grievances, and supporting community mobilization efforts of the project. The project site office and DRO will recruit a dedicated E&S staff /specialist to be responsible for the implementation of the planned activities in this IPPF and IPDP prepared under this framework. The E&S specialist/staff will be responsible for managing E&S issues of the project at the local level, with technical support and guidance from the social staff/specialist at the PCU. In addition, the E&S specialist will also serve as the focal persons for the GRM Level 1 at the local level. In addition, the E&S specialist will also be responsible for reporting and helping to manage sensitive incidents, such as grievances related to SEA/SH to the Social staff at the PCU/MoICS. The staffs to be recruited at the PCU and project site office will be trained by the World Bank in collaboration with the PCU/DoR on the management of project-related E&S risks and impacts. The organizational structure will be reviewed periodically to ensure the effectiveness of IPDP implementation

5.2 The Roles and Responsibilities of Units/Agencies and individuals

The roles and responsibility of key agencies/units envisaged for the implementation of the IPPF and IPDP are shown in the table below.

Table 5.1 Roles and Responsibility of Related Units/Agencies

Key units/agencies	Roles and responsibilities
PCU at MoICS	<ul style="list-style-type: none"> • Procure environmental and social consultants to prepare the required E&S instruments such as ESIA, RAP, IPDP, and IEE/EIA needed for the World Bank and government approvals • Planning, budgeting, and ensuring the implementation of the IPPF/IPDP <ul style="list-style-type: none"> ○ Coordinate and monitor IPPF/IPDP activities with the Project site office established by MoICS and DoR. ○ Collating IPPF/IPDP -related activities from the project site office along with their performances and outcomes. ○ Undertaking periodic monitoring of IPPF/IPDP, and preparation and dissemination of quarterly IPPF/IPDP implementation reports. • Ensuring necessary financial and human resources for effective implementation of the IPPF/IPDP and other E&S management plans. • Ensuring the project activities as per the various guidelines and directives

	<p>issued by the government and other related organizations, including Covid 19 management protocols.</p> <ul style="list-style-type: none"> • Ensuring effective management and reporting of project-related complaints and grievances as per the project GRM.
E&S staff within PCU	<ul style="list-style-type: none"> • Screening of proposed subprojects to identify presence of IPs and categorize the project’s risk and impact on IPs and requirement of safeguard instruments to be prepared (ESIA or IEE, RAP, IPDP, etc.) • Prepare terms of reference for the E&S studies of subprojects • Reviewing consultant deliverables related to ESIA including IPDP, reviewing bid documents for inclusion of ESMP and IPDP measures, supervising construction activities, producing periodic monitoring reports, • Supervising CSC for the implementation of IPDP & ESMP • Closely coordinate with other concerned agencies, local governments, and communities to support the implementation of IPDP
CSC	<ul style="list-style-type: none"> • IPDP, RAP and ESMP implementation in close coordination with E&S staff at Project site office of MoCIS • Preparation of monthly IPDP and RAP progress reports and submit to PCU • CSC will have dedicated environment, social and OHS staff
Project site office of MoCIS and DoR	<ul style="list-style-type: none"> • Facilitate and assist CSC and PCU for planning, designing, implementation and monitoring of the IPDP &RAP/LRP, as required • Lead the implementation of stakeholder consultation activities at the community level as per the IPPF & IPDP • Supporting the PCU in identifying affected IP communities in the subproject and updating the list of stakeholders. • Mobilizing and organizing consultations and project engagement activities related to implementation of IPDP • Disseminating project-related information in a timely manner. • Managing and ensuring the smooth functioning of the Level-1 GRM. • Reporting (monthly) on IPDP and GRM to PCU

5.3 Approval and Implementation Schedule for the IPDP

This IPPF has prepared by PCU and IPDPs during implementation will be prepared by E&S consultants procured by PCU with close collaboration with social staff of project site office. IPDPs will be prepared as per the guidance made and the provisions specified in the IPPF. The IPDPs will be reviewed and approved by social/IP specialist staff of PCU.

The PCUs of the respective components will ensure that required funds planning, designing and implementation of IPDPs are available timely manner.

For the project, an indicative schedule for implementing the IPDP is shown in the Table 5.2, assuming a sequential order of proposed activities. Some of these steps may overlap in their timing and some will be repeated throughout the project cycle.

Table 5.2 Milestones for IPDP Implementation Schedule

Activities	Milestone	Schedule
Deploy PCUs with required logistics	PCU established and started functioning	First year
Provide orientation/training on IPPF/IPDP to the Social Development/IP Specialist and the relevant staff at the PMU	Orientation/training provided/organized	First year
Recruit required social staff and specialist at project site office and provide them orientation/training on IPPF/IPDP Continue implementing consultation, information dissemination and participation programs and form GRM committee and initiate GRM awareness activities along with resolution of grievance (if any) Consultation with IPs, local communities, officials of concerned line agencies and local government. Similarly, CBOs, NGOs and Civil Society of the concerned project area will equally be considered during the preparation and the implementation of the IPDP.	Required social staff recruited Orientation/training provided/organized Activities related to consultations and information dissemination started. GRM established and started functioning	First year
Identify IP communities and other stakeholders with potential interests/rights (both customary and legal) on the land or other natural resources that are proposed to be developed, managed, appropriated, utilized, or impacted by the proposed project activity through screening and social assessment exercises	Screening of IPs in the project area carried out	First Year
Undertake social assessment of IP communities present in subproject areas and identify mainstreaming and targeted activities for IPDP Prepare and distribute copies of draft IPDP to the affected IP communities	Social Assessment of IP communities conducted and draft IPDP prepared Draft IPDP discussed with the IP communities in the subproject	First year
Finalize the IPDP incorporating the relevant comments and	IPDP prepared and finalized	First year

feedback provided by IP communities and stakeholders		
Implement IPDP	IPDP implementation started <ul style="list-style-type: none"> • Mitigation of the Potential Impact • Enhancement of the benefits • Monitoring of the IPDP implementation 	Second year
Contract and mobilize independent Monitoring agency	Independent Monitoring agency selected and mobilized	Second year
Implement internal and external monitoring programs	Periodic monitoring reports are prepared and disseminated	From second year and throughout the construction period

5.4 Implementation of the Specific Measures to IPs

Based on the past experiences, some generic measures for IPs are outlined in table below. The source of funding and the agencies responsible to implement the proposed strategies are included in the table.

Table 5. 3Generic Measures for Indigenous People

Proposed Strategies	Sources of Funding	Agencies Responsible
A. Inclusion		
<ul style="list-style-type: none"> • Ensure awareness raising, active participation and capacity building of the IP communities • Ensure of participation in awareness campaign, project implementation and monitoring • Ensure equal wages for similar work during implementation • Launch project information campaign to inform the target groups about the key features of the project and sub project. 	GON	DoR-DCID PCU-MoICS
B. Program & Planning		
<ul style="list-style-type: none"> • Asses and analyze the presence of IP communities in sub-project and sites • Treat and support IPs, preferentially 	GON	DoR-DCID PCU-MoICS

Proposed Strategies	Sources of Funding	Agencies Responsible
<ul style="list-style-type: none"> • Involve IPs in beneficiary groups to increase their participation. • Define training/income generation activities based on the identified needs and priorities of IP in the subproject area. 		CSC
C. Capacity Building		
<ul style="list-style-type: none"> • Conduct project related meetings in indigenous community areas to encourage their participation. Ensure a quorum which includes representation from IP groups. • Provide targeted assistance/training aimed at IP groups to enhance livelihoods and participation in the subcomponents • Built in awareness campaign about the project in the subproject • Build capacity of indigenous peoples, promoting necessary knowledge and skills to participate in subcomponent activities • Develop capacity through trainings on application of Agriculture Information system to small farmers 	GON	DoR-DCID PCU-MoICS CSC

5.5 Cost Estimate and Financing for the IPDP

The IPDP will have, as applicable, its own budget. A detailed budget will be prepared by the consultant considering of 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 EA will ensure that an adequate budget is available to implement the IPDP.

CHAPTER-6 STAKEHOLDER ENGAGEMENT, DISCLOSURE, AND GRIEVANCE MECHANISM

6.1 Engagement with IPs and other Stakeholders

As envisaged by the Stakeholder Engagement Plan (SEP) prepared for the project, the project will conduct meaningful consultations with all the project identified stakeholders, including the Indigenous peoples (IPs) in and around the project area to ensure that the priorities, preferences, and needs of the indigenous groups are taken into consideration adequately while designing IPDP and other mitigation mechanisms. With that objective in view, a strategy for consultation with indigenous/tribal communities has been proposed so that all consultations are conducted in a manner that ensures full and effective participation. The approach of full and effective participation is primarily based upon transparent, good faith interactions, so that everyone in the community is empowered to join fully in the decision-making process. It includes providing information in a language and manner the community understands and, in a timeframe, compatible with the community's cultural norms. Care will be taken to maintain transparency of the Project, reduce potential conflicts, minimize the risk of project delays, and enable the Project to design the IPDP and required resettlement and the rehabilitation program as a comprehensive development program to suit the needs and priorities of the project affected IPs.

The development of the IPPF/IPDP 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 IP community and IPs households will be determined. IPs that will be impacted due to the implementation of the project will be interviewed on an individual basis, consulted in group discussions and meetings to understand and collect their views on their needs, priorities, and preference regarding the project implementation. Separate focus group discussions will be organized with indigenous communities to assess the project impacts and benefits to these groups. Based on ESIA findings, an IPDP will be prepared with the feedback of consultation and respects their views, concerns, requests and recommendations and also fully considered.

The affected IPs will be actively engaged in all stages of the project cycle, including project preparation, and feedback of consultations with the IPs communities will be reflected in the project design, followed by disclosure. Their participation in project preparation and planning will inform them about project design and will be continued in the project execution. Once the IPDP is prepared, it will be translated into Nepali and local language (if possible) and made available to them before implementation.

The IPPF/IPDP implementation will continue this participatory approach to enable meaningful consultation and effective participation of IPs. The project will adopt a strategy to ensure involvement of IPs in project preparation and implementation. Core components of this strategy are (a) the representation of Indigenous people on 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 implementing plans will be developed jointly with the indigenous communities. The project team will work with them on the community 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. Project's SEP outlines the specific measures proposed for engagement with the IPs and the vulnerable groups throughout the project lifecycle. The time and location of consultations will be determined as appropriate to the needs of IPs and vulnerable people.

6.2 Disclosure and Dissemination Strategies

Project-related information will be publicly disclosed throughout the project lifecycle using a range of channels, including the following:

- Periodic stakeholder consultations, such as public hearings
- Organizing community meetings, FGDs, participatory appraisal techniques, household interviews and social mobilization techniques as appropriate
- Project-related information will be posted on the notice boards at the public offices
- Information dissemination through social media such as Facebook, Messenger or WhatsApp and local communality radio, among others.
- Digital boards will also be placed on selected worksites to display up-to-date information regarding the project, ensuring that local people understand the information well.
- Development and distribution of project factsheet, information on the GRM, and FAQ in Nepali.

In addition, the draft and final version of the IPPF/IPDP will be disclosed to the stakeholders, including the affected IP communities through appropriate channel, and consulted with them to get their comments, concerns, and feedback on the draft IPPF/IPDP. The IPPF/IPDP will be finalized incorporating the relevant suggestions and feedback received from the representatives of IP communities and stakeholders. The final IPPF/IPDP will be disclosed once approved by concerned PCUs and World Bank.

Executive Summaries (ES) of the IPPF will be translated into the Nepali language and paper copies will be made available to the IP communities of the project area through the concerned local project offices, offices of local governments line agencies. These offices also paste the

paper copy of the ES in their notice board. As per Clauses 3, 7 and 8 of Right to Information Act, 2064 (2007), copies of IPPF and other project documents will be provided to any requester, who pay the cost of the photocopy. Besides key highlight of final IPPF will also be disseminated through appropriate means of communication like Social Media, FM radio broadcasts through local radio stations, community meetings, focus group discussions, participatory appraisal techniques, household interviews and social mobilization techniques.

All the plans prepared under this framework will be disclosed and disseminated following above-mentioned strategies.

6.3 Grievance Redress Mechanism

As explained in detail in the project SEP prepared as per the ESS 10, the project will establish a Grievance Redress Mechanism to allow affected IPs and other related stakeholders to appeal any disagreeable decisions, practices, and activities that may arise during preparation and implementation of the IPDP. The IPs will be made fully aware of their rights and the procedures for filing the complaints and grievances verbally and in writing during the planning, designing and implementation of IPDP and other plan of activities targeted to IPs. The project's GRM is at no cost to complainants and guarantees that there will be no retribution for people who lodge complaints on project activities. Furthermore, the grievance mechanism will not impede access to judicial and administrative remedies. To ensure a functioning GRM, the project has envisaged a two-tier project GRM system (see Figure. 2) .

Level 1: This is based at the project office at the project site and will serve as entry points for all complaints related to the project. Once the grievance is registered, it would come into the Level 1 of the GRM system. The Level 1 GRM committee will be led by the Chief of the project site office and supported by E&S Specialist, representative/s of construction contractor and a technical engineer of the project office. Together, these officials constitute the members of the four-member local level GRM committee. If required, the Level 1 GRM committee may seek support from the Judicial Committee⁴ at the local government level. The GRM may invite representatives of local Indigenous People's Organization (IPOs) as observers.

Level 2: If the complainant rejects the resolution made by the Level 1 or the GRM Committee remains unable to make any resolution within the stipulated time, the grievance will be scaled up to level 2 of the GRM system. The Level 2 GRM committee, which will be based in the PCUs will be headed by the chief of the PCUs, and supported by the Social Specialist or Staff at the PCU and another person assigned by the PCU head. The three-member committee can seek supports from other experts or institutions like NEFIN in course of investigating and resolving complaints. If complainants remain unsatisfied or reject the resolution provided by the Level 2 GRM, they will be advised to seek recourse through the courts or any formal system available.

⁴Article 117 of the Constitution of Nepal, promulgated in 2015, prescribed a three-member Judicial Committee at the local level coordinated by its Vice-Chairperson in the case of a Rural Municipality and by its Deputy Mayor in the case of a Municipality, to settle disputes under their respective jurisdictions in accordance with the law

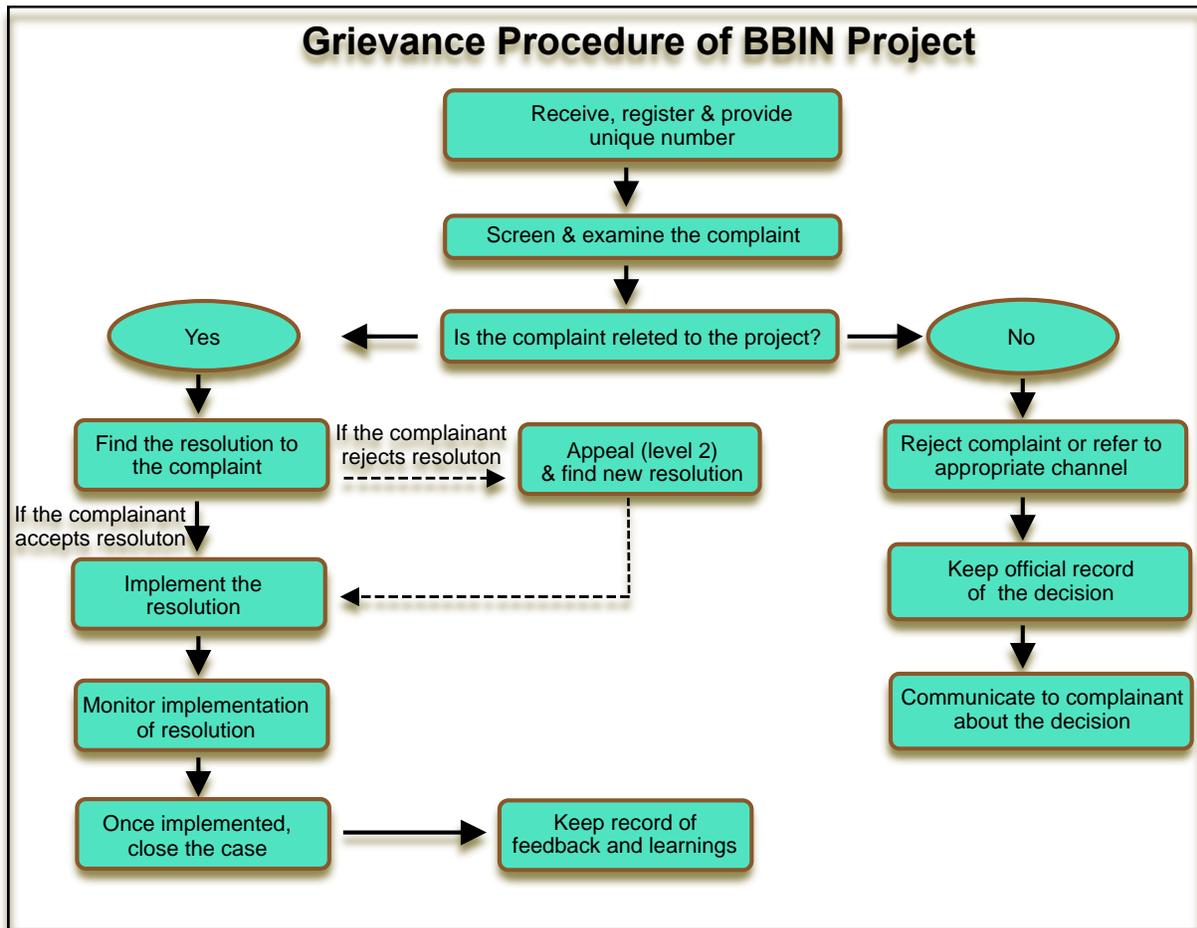


Figure 4 GRM System BBIN1

The project will ensure the availability of a variety of methods for IPs and stakeholders to lodge grievances. Affected IP peoples and other stakeholders can lodge a grievance at Level 1 by:

- Filling out and submit complaint forms at the project site office. The E&S staff/ specialist at the Project Site Office will assist in filling out the complaint form for complainants who are unable to read or write and/or are unfamiliar with the grievance process. In such case, the E&S staff/ specialist or any other person assigned for the task will formally register the grievance by filling out the complaint form made available for the project
- Sending emails or by calling in the assigned number/s of the project office
- Using the project social media handles such as Facebook
- Sending grievances through postal service to project offices at Federal and local levels.

Details of the project-level GRM, which will be used for addressing and resolving project related grievances, are outlined in the SEP for BBIN 1. The proposed structure for the GRM is outlined in Figure 2. A draft grievance recording, registration and closing forms have been provided at Annex 1 of the BBIN 1 project SEP.

CHAPTER-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 persons in the IPs households assisted; and (ii) confirm that former subsistence levels and living standards are being re-established. 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.

PCUs 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 time lines 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 will be identified while preparing subproject specific IPDPs considering 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.

An overall impact evaluation will be carried out in the final year of the project to assess the changes in the overall living standards contributed by the project. 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 people participated actively in project activities, benefited from target assistance to enhance their livelihoods, 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 PCU environmental and social (E&S) team through the help of the consultant to verify:

- Actions and commitments described in the IPDP are implemented fully on time;

- IPDP actions and mitigation measures are effective in sustainably enhancing the livelihood of IPs affected peoples' living standards and income levels;
- 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

An independent consultant recruited by the PCUs will be responsible for the independent monitoring and evaluation. The monitoring will be done twice- mid-term and final term within the project period. The external monitoring will be conducted by an expert consultant specialized in social science with specialized in Indigenous Peoples issues. Key indicators of external monitoring and evaluation are presented as follow:

- Effectiveness of public consultation and awareness of project benefits, and livelihood enhancement measures entitled to the affected IPs/scheduled tribes and local peoples;
- Level of satisfaction of affected IPs and local peoples with the provisions of IPPF and IPDP;
- Effectiveness and efficiency of grievance redress mechanism (documentation, process, resolution);
- Effectiveness and sustainability of entitlements and income rehabilitation measures for affected IPs and local peoples;
- If applicable, process followed to obtain broad community support through FPIC — record of processes, participants, locations and agreement obtained;
- Capacity of affected IPs and local peoples to restore/re-establish livelihoods and living standards with the support provided by the project;
- Suitability of actions undertaken for mitigation and compensation of access restriction and livelihood impacts due to project;
- Appropriateness of activities planned and implemented for assuring IPs and affected people's participation in IPDP planning and implementation;
- Institutional capacity for supporting the IPDP elaboration and implementation, internal monitoring and reporting systems;
- Channeling of funds for compensation of loss of income and livelihoods and allowances for affected IPs and local communities.

The PCU E&S Team 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

Outline of elements required for an Indigenous Peoples Development Plan (IPDP) include the following:

- 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.