

# Challenges and opportunities for indigenous nationalities IN THE FACE OF REDD PARTNERSHIPS IN NEPAL

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*Knitting a traditional allo shawl. Photo: Tsedar Bhutia*



Nepal is a highly diverse Himalayan country in terms of ethnicity, language, culture, geography and origin. Throughout the history of Nepal, indigenous peoples have been marginalized in terms of language, culture, political and economic opportunities even though they constitute a significant part of the population. The latest census (Census, 2001) shows that at least 37.2 per cent of the total population of Nepal is indigenous; others claim that the figure is not less than 50 per cent of the total population.<sup>1</sup> However, the Interim Constitution of Nepal, 2007, has recognized the right to equality of all citizens in terms of language, culture, caste, tribe, sex and origin. Thus the constitution has created a platform for indigenous peoples to exercise the protection and promotion of their culture, indigenous knowledge and skills (Interim Constitution of Nepal, 2009).

In the Constituent Assembly that is currently in the process of drafting a new constitution, Indigenous Nationalities constitute 36 per cent of the total number of seats. The record presence of the indigenous peoples injects hope that indigenous rights will be guaranteed in the new constitution. But still indigenous peoples do not yet feel secure that enough is being done to protect and promote their rights. Constituent Assembly members represent political parties rather than their own peoples, and naturally the issue of indigenous rights becomes secondary.

## Indigenous peoples and natural resources

Indigenous Peoples have rights over their traditional land and natural resources based on cultural, spiritual, customary and traditional grounds and practices. Such rights are collective in nature. A recent Government Task Force on the implementation of ILO Convention 169<sup>2</sup> (2008) states:

*Indigenous peoples have rights on the land and natural resources based on cultural, spiritual, customary and traditional grounds. Such rights are collective in nature. Accordingly, the persons dependent on these resources have their rights to them. Nepal's laws and policies, in the beginning, seem to have granted the right to land, geographical areas and natural resources that fell under the Kipat<sup>3</sup> system under indigenous peoples collective rights. After Acts, policies and rules started being formulated, especially with the objective of State management and conservation of forest and natural resources, communities started losing their collective right to develop, conserve, manage and control such natural resources. In 1964/65 the promulgation of the Land Act seemed to have transferred the collective right over land to individual rights. Due to the then prevalent legal system depriving indigenous peoples of their land and natural resources, they lagged behind in social, economic and cultural development (p.37).*

Although the prevalent legal system did not recognize most of the collective ownership of land and natural resources, in many places indigenous peoples have been developing, managing, conserving and promoting land and natural resources. They are conscious of the fact that these resources are indispensable for their livelihoods as well as cultural and spiritual development. However, especially after 1960, when the government of Nepal started establishing national parks across the country, the collective indigenous practices of natural resource management were banned by law and thus negatively impacting the life and rights of indigenous peoples. Since they were legally deprived of access to the natural resources they depended upon, it had a knock on effect on their customs and existence. They were compelled to change their livelihood strategy.

The national park regulatory system has not only put the identity of the indigenous people into a marginalized position but the sense of ownership by virtue of their traditions and unrestricted association with nature as practiced in the past is also diminished,

mainly psychologically. Their stewardship of nature turned into a relation of distance adversely affecting the conservation of biodiversity. Natural resources became gradually depleted. Poaching and felling of trees became almost a societal norm. Green cover was drastically reduced.

The gap between the parks and people outside and those within increased.. So did the bitterness. The trend continues, and its ultimate impact will naturally be on the environment. In such a situation, the role and contribution of a future Reduced Emissions from Deforestation and Degradation (REDD) programme in Nepal becomes far more challenging. After all, in the past many external organizations and agencies have been involved in the creation of national parks and their promotion. How will REDD be different, and how will it affect forest-dependent indigenous peoples?

## REDD and indigenous peoples in Nepal

With the emergence of the concept of a REDD mechanism, there is already intense speculation about the success of its declared objectives, and how it is going to be indigenous-friendly. How is it going to undo the experience and attitude developed in the post-1960 national park regulation phase where indigenous peoples access to the natural resources were banned by law? Now, with the REDD mechanism led by the Government of Nepal, how will indigenous peoples be ensured access to the natural resources that form the basis for their livelihood? All these questions need to be addressed by REDD.

Since the REDD scheme in Nepal is financed by the World Bank, controlled and supported by the developed countries such as the UK and USA, there are also suspicions in the minds of the indigenous peoples that this institution would serve the interest of those countries primarily, and that of the Government of Nepal, whose laws and rules govern the operation of the World Bank in the country. Their natural apprehension is that the World Bank and its promoters would be least concerned with the rights of the indigenous people who live in and rely on the forests.

Carbon financing is often identified with the interests and rights of the wealthy countries and companies to the extent that even their continuous polluting of the environment is condoned, and rarely punished. In the process, they exploit the developing and under-developed countries by locking them into un-equal and long-term contracts detrimental to the



Spinning and weaving with traditional allo yarn made from nettle fibres found in the forest. Photos: Tsedar Blutia

interest of these nations. This is also regarded as the latest and crude form of neo-colonialism.

This is a major concern often reiterated by indigenous peoples. Their criticism of the manner and process adopted in the official climate change negotiations and the policy frameworks for the different REDD schemes, brings that to the fore. The 2009 UN University/Tebtebba/UNDP Guide for Indigenous Peoples on REDD states,

*Indigenous Peoples have voiced a number of grave concerns. First they were not adequately consulted on the design of Forest Carbon Partnership Facility (FCPC). It is vital that they should be consulted in relation to any particular projects under the facility that might affect them and that any such project fully take account of and recognize any Indigenous rights that may be affected...there is some concern about the fact that it is mostly government and the private sectors entities that have caused deforestation and it is these same entities that are likely to now benefit from the facility (P. 3-4).*

In such a situation, how can we be assured that the REDD mechanism would have a positive impact on the livelihoods of the indigenous peoples in Nepal? In developing countries like Nepal, where indigenous peoples and forest dwellers are closely attached to the

forest for their livelihoods, and have preserved the biodiversity and the natural resources for centuries, Governments will be convinced with this kind of approach. Therefore, it is pertinent that the REDD mechanism in Nepal is developed in consultation with indigenous peoples, and that their free, prior and informed consent is obtained before a REDD programme is implemented in their territories.

Nepal is one of the five countries in Asia (Cambodia, Laos, Vietnam, Thailand and Indonesia) selected for support under the World Bank's Forest Carbon Partnership Facility (FCPF) and its REDD Readiness Fund, after submitting a Readiness Plan Idea Note (R-PIN) in April 2008. With the FCPF funding, the country is now in the process of developing its Readiness Plan (R-Plan), which will present how Nepal plans to get ready for implementing future a REDD programme.

Recently, the ToR for the R-plan has been developed. It calls for the submission of proposals for component No 2 among the 9 main components of R-Plan. Component No. 2 is 'Management of Readiness' which consists of two sub-components namely: 2a - Convening a national working group to conduct REDD activities and 2b - Preparing a REDD consultation and outreach plan. The purpose of this contract is to prepare subcomponent 2b – the REDD



*A Sherpa yak caravan in Khumbu. Photo: Lhakpa Sherpa*

Consultation and Outreach Plan for the development of the Readiness Plan Proposal (RPP) for the implementation of the REDD after 2012 though the final agreement of the REDD mechanism will be determined solely by the 15<sup>th</sup> CoP in Copenhagen in Dec. 2009.

The purpose of the R-Plan is to assist Nepal in laying out and organizing the steps needed to achieve “Readiness” to undertake the range of activities for reducing emissions from deforestation and forest degradation (REDD), in the context of Nepal. Pokharel and Baral<sup>4</sup> in their article, “From Green to REDD, from Aid to Trade: Translating the Forest Carbon Concept into practice” (2009) mention,

For a country like Nepal, the meaning and the concept of REDD should be ‘Nepalized’ in a way that fulfills the people’s needs and aspirations because the majority of Nepal’s rural population are dependent on forest resources. For Nepal, REDD requires:

- Ensuring forest governance through various sets of institutional mechanisms that guarantee the rights of local community groups, IPs [indigenous peoples] and forest-dependent poor households over forest resources. Only this will ensure consensus among various stakeholders in decision-making.
- Reducing poverty of forest-dependent households and IPs living in and around forests (P.38).

However, the R-PIN submitted to the FCPF by the Ministry of Forests and Soil Conservation of Nepal has focused on the community based management model using the existing Community Forest User Groups (CFUGs) that have been institutionalized during a decades-long community-based forest management paradigm. The free and prior consent of indigenous peoples regarding rights over their traditional lands, territories and the resources and management of these territories is thereby ignored (Ministry of Forests and Soil Conservation, 2008). There is no single reference to the ILO Convention 169 on Indigenous and Tribal Peoples that was ratified by Nepal in 2007 (ILO169, 1989), neither to the UN Declaration on the Rights of Indigenous Peoples adopted by the UN General Assembly in 2007 (UNDRIP, 2009).

In the established community forest management system, the position of indigenous peoples is very critical, especially when their position is ignored in the highly hierarchical nature of Nepali society. Decisions on the local governance of the forests are generally taken by powerful groups. Thus the indigenous peoples’ access to and control of forest resources exercised traditionally, is being undermined. If the REDD mechanism is going to be based on the community management model, ignoring the indigenous peoples’ rights to resources, this may come to be seen as merely window dressing. .



*Sharing the burning issues of cultural disappearance. Photo: Tsering Sherpa*

The Terms of Reference (TOR) of the R-PLAN developed by the National Working Group on REDD in Nepal has only recommended consultation and coordination with local communities and indigenous peoples, but it clearly ignored the free and prior informed consent of the indigenous peoples concerning their traditional land and resources. This is clearly in violation of the spirit of ILO Convention 169 and UNDRIP.

During the Ministry of Forestry and Soil Conservation's process of developing the R-PIN, the indigenous peoples were not consulted at all. But apparently, to fulfill the statutory requirement, there were indigenous peoples involved in the civil society/Community Forest User Groups (CFUGs), who were invited to join the National Working Group on REDD Cell in Nepal. But their presence, roles and contribution is yet to be seen, and it is feared that government representatives and donor agencies will have the strongest influence in the decision-making processes.

Therefore the representation from indigenous peoples in the National Working Group of REDD in Nepal, which is highly influenced by the government and donor agencies, does not quite guarantee that indigenous peoples' rights will be protected to the desired level.

Whether the concept of carbon trading would simply follow the same trend of collecting the revenue at the national level as the government does from the National Parks, or also fulfill the needs and aspirations,

as mentioned by Baral in his article, by securing the rights of the indigenous peoples over their forest resources, is debatable.

### Are the indigenous peoples prepared for REDD?

Although the government of Nepal has formally entered the FCPF readiness mechanism for REDD, still the indigenous peoples at the grass roots level are ignorant of it. The prior consultation for their consent to develop a REDD mechanism that ensures their access to resources and to continue their customary practices, is not mentioned neither in the R-PIN nor in what has been seen so far of the R-PLAN. The REDD awareness program at the local level regarding the pros and cons of REDD is negligible. Therefore the development of the REDD mechanism in Nepal is just a continuation of the top down approach where indigenous peoples are given little choice to determine their own future.

NEFIN in partnership with IWGIA and the Asia Indigenous Peoples' Pact (AIPP) – with funding from NORAD - is working on a *Climate Change Partnership with Indigenous Peoples: Promoting Rights-based, Equitable and Pro-Poor REDD Strategies in South Asia and Southeast Asia* since June 2009. The objective of this cooperation is to create awareness among the indigenous peoples on REDD and Climate Change, and educate them about how climate change impacts

on their lives. Ultimately, though, the future of REDD in Nepal boils down to whether the government will be willing to accept the decisions of indigenous peoples, once they understand the pros and cons of REDD. Will the government be fair and objective?

### Challenges for indigenous peoples

A few months back, hundreds of yaks died in Sankhuwasawa in the mountains of Northeastern Nepal when the forest caught fire. The indigenous Sherpas from the area received nearly no compensation for the livestock upon which their lives depend. They are ignorant of the effects of global warming and became its victims when the snow did not fall at the time expected. In many cases in the mountain regions of Nepal, the indigenous peoples are forced to change the pattern of their shifting cultivation - shortening the cycles - after losing their access to park areas. In such a situation, if the REDD mechanism further squeezes their customary rights with mere compensation in cash, it would not only violate the ILO Convention on Indigenous and Tribal Peoples' Rights



A Buddhist stupa (shrine) in a Himalayan forest. Forests in the Himalayas are home to numerous places sacred to the indigenous peoples. Photo: Lhakpa Sherpa

( ILO 169, 1989) and the United Nations Declaration on the Rights of Indigenous Peoples ( UNDRIP, 2007), but also bring about further devastation of biodiversity and natural resources.

The dissemination of incorrect information on climate change and the hazards it can cause has put the lives of many indigenous peoples into a state of panic. Instead of providing incentives for developing alternative mitigation and adaptation strategies for their livelihoods, all the communities from Tamakoshi Village in Rolwaling were evacuated, on the basis of speculation that Tsoiling lake in the area would burst in 1996 (Personal Communication, Prof. Dr. Ruedi Baumgartner, 23<sup>rd</sup> July 2009).<sup>5</sup> The lake is still intact, but the fear has not died down.

No one knows whether it was a clever strategy on the part of the government to displace the indigenous Sherpas from the area, or it was honest in trying to protect human lives. But one point has been substantiated, namely that there was no serious study of the possibility of glacier bursting. The displacement led to the loss of the traditional lands and sacred places of the Sherpas, they were so emotionally attached to. How can REDD act differently? How can it be more sympathetic towards the local communities? This is something that has to be proven by action.

### Securing indigenous peoples' livelihoods

The present top-down approach of REDD tends to ignore indigenous peoples at the grass roots level. This should be altered with a greater representation of indigenous peoples in the decision making bodies and the development of a transparent contextual monitoring mechanism, so that their rights will be secured. The failure of the promised reduction of deforestation from the top down national governing system of the national parks is one of the main examples why, without the effective participation of indigenous peoples, the conservation of biodiversity or increasing the carbon sequestration is not possible. Ojha, Baral, Dahal, Subedi & Branney (2008) present,

*National Forest areas are different regimes of governance. The protected area system covers about 19.7% of the total area of the country...Regimes where local communities have been given management rights have been already successful in checking deforestation (mainly community forestry), while the government managed forests still continue to degrade and deplete (P.27).*

Although the community-managed forests have been successful in checking deforestation and reducing carbon emission, the rights of the indigenous peoples

to practice their culture, traditions, exercise their knowledge and have access to resources, can not be negotiated within the carbon trade.

If the REDD mechanism accepts carbon trade based on sequestration of carbon only through the trees, and access to the use of the Non-Timber Forest Products (NTFPs) remains open for the livelihoods for indigenous peoples, it would not only be in conformity with ILO Convention 169 and UNDRIP, but would also help to sustain indigenous knowledge, skills in arts and crafts, culture, language, and promote indigenous entrepreneurs. This would also balance the biodiversity of the natural resources. But if the government develops a REDD mechanism without the consent of the indigenous peoples and completely blocks their access to the forest as they did in the case of nationally governed protected areas, This would be highly unsatisfactory. This will discourage the indigenous peoples from preserving and protecting the natural resources and violate their rights recognized by ILO Convention 169 and UNDRIP.

Blocking resources and compensating the indigenous peoples with money from carbon trading will not work. It is imperative to restore to them their sense of ownership over the resources and all other aspects – traditional values, culture, skills, and indigenous knowledge, etc. – associated with it. In their minds these are beyond price. It is advisable that the government should take the lesson from the nationally regulated parks, an experiment that has alienated the indigenous peoples in practice as well as emotionally. It is equally important to understand that developing buffer zones and promising 30 to 50 per cent of the park revenues to the local development initiatives has not been that effective. It has, on one hand created the conflict, and on the other, left people feeling despondent that money is being given primacy over their identity and existence.

REDD as a process must understand, and learn from these experiences; that the conservation of biodiversity and the management of its mechanisms is bound to fail without indigenous peoples' participation and ownership. □

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## Notes

- 1 Another disputed fact is the number of distinct indigenous nationalities, with 59 peoples being officially recognized in national law, but more than that claiming indigenous status. A Government Task Force is currently investigating this issue.
- 2 ILO Convention 169 on indigenous and tribal peoples was ratified by Nepal in 2007.
- 3 The *Kipat* system was indigenous collectively owned land.
- 4 Dr. Jagadish Baral is the present coordinator of the National Working Group on REDD Cell in Nepal.
- 5 Prof. Dr. Ruedi Baumgartner of Swiss Federation Institute of Technology Zurich is presently doing research in to see the change in the pattern of living of Rolwaling Sherpas in the gap of 30 years when he did his Ph D on the change of their Livelihoods due to the impact of tourism.

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