

Indigenous Majhi women resisting the construction of Sunkoshi hydropower dam in Manthali, Ramechhap to protect their land rights

Introduction

National Indigenous Women Forum (NIWF) led a Feminist Participatory Action Research (FPAR) on rural women's rights to land and natural resources (Land FPAR) between September 2018 and June 2020 with Majhi women of Kunuari and Bhatauli in Ramechhap District. NIWF advocates for the social, cultural, political and economic rights of marginalised indigenous women of Nepal. Through the initiatives of this FPAR, NIWF formed two women's groups consisting of seven members in each group to strengthen Majhi women's leadership capacity in mobilising their community and resisting displacement from their land.

Background

The Department of Electricity Development of Nepal has planned to develop Sunkoshi-II or SU-II (1,110 MW) and Sunkoshi-III (536 MW) hydropower projects as a pumped-storage project. The location of the SU-II project is in Dudhbhanjyan Village Development Committee (VDC) in Sindhuli District and Rampur VDC in Ramechhap District. The total length of the SU-II reservoir is 35.0 km with a catchment area of 10,396 sq km. SU-II has potential to inundate Khurkot to Manthali road affecting the



Kunauri and Bhatauli villages of the indigenous Majhi community, displacing them from their ancestral land. Kunauri and Bhatauli villages are separated by the perennial Tamakoshi river that flows through the Mahabharat hills in the middle region of Nepal. All Majhi of Kunauri and Bhatauli reside on the bank of the Tamakoshi river in Manthali. Traditionally, Majhi people's livelihood and customary ways of life revolved around the local rivers. Displacement from their ancestral land would be a threat to their livelihoods, language, indigenous knowledge and skills and collective identity as indigenous Majhi people.

FPAR process

The NIWF FPAR team, consisting of a young women researcher, mentor and two local community co-researchers, led the various activities of the FPAR. At the inception of the FPAR, the research team facilitated two community consultation meetings in Kunauri and Bhatauli to inform the community about the objective and importance of the FPAR and listen to the concerns of the women. Around 30 Majhi women participated in each of the consultations. At the consultations, the Majhi women became more informed about the Sunkoshi-II hydropower project, identified gendered impacts in relation to the construction of the dam and understood the importance of their rights to the Free, Prior and Informed Consent (FPIC) as indigenous peoples. Through a series of workshops and focus group discussions, the Majhi women became aware of national policies and programmes specific to land and property ownership by women, as well as ILO Convention 169 (Indigenous and Tribal Peoples Convention) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The women used survey, resource mapping and land mapping tools to identify their natural resources and discussed how the construction of the dam would impact them. The women's groups identified their advocacy targets using the power mapping tool and developed a campaign plan using the critical path analysis tool. Using their research findings, they produced a digital story as a powerful tool to advocate for their agenda.



FPAR findings

Majhi women's relationship with land and water

Majhi women conceptualise land as a part of a shared landscape and habitat that they share with birds, animals, water, forest and other microorganisms. Land, for them, comprises soil, stone, minerals, rivers, streams, trees, herbs, animals, birds and such. Thus, it is a place for survival and shelter, both for humans and other living beings. They say they yield vegetables and crops from land, get water from it and supply medicine for treatment. The Majhi women's perception of their land is deeply related to their life, culture and identity. The Tamakoshi river is an inseparable component of Majhi people in terms of rituals and cosmological performances.

**“Koshi is all necessary for Majhi throughout all life-cycle rituals...Shall we be close to Koshi when displaced?”-
-A Majhi woman**

Women's lack of land ownership

The government of Nepal has taken several proactive measures to promote women's access to, ownership of and control over land and property. According to geographical locations, there is a policy of 25 per cent to 50 per cent tax exemption on registration when land is owned by a woman; 35 per cent tax exemption for single women; and joint registration of land in the names of husbands and wives with a fee of Rs 100 (around USD 0.84). With the Civil Code Bill and the Civil Procedure Code Bill that came into force on 17 August 2018, daughters also now have equal rights in parental property. Daughters are no longer required to return their parental property to their parents after marriage. Nonetheless, merely 19.7 per cent of women own around five per cent of land across Nepal, and only around 11 per cent have effective control over their property.¹ Achieving satisfactory progress in the efforts of promoting women's access to and control over property is difficult due to existing patriarchal

¹ Central Bureau of Statistics. 2011. Nepal Living Standards Survey 2010/11. Statistical Report. National Planning Commission Secretariat. Government of Nepal. Volume II.

norms and male hegemony in Nepalese society. This is reflective in the two communities where the FPAR took place. Only one woman in each community had the land registered in their name, and three households in Kunauri and one household in Bhatauli had the land registered in joint names of the wife and the husband. It shows that the implementation of the codes is deemed important across the nation, including in Majhi communities.

Non-implementation of the ILO Convention 169 and UNDRIP

Concerning the rights of Indigenous Peoples (IPs), the government of Nepal has ratified ILO Convention 169 and UNDRIP. However, the government has not yet developed any specific legal provisions. In addition, the government's actions are not sympathetic with the provisions declared in these documents for the IPs. In the case of the SU-II project itself, for instance, Article 15 of ILO Convention 169 on the rights of peoples to the natural resources pertaining to their lands has clearly been breached and bypassed.

Free, Prior and Informed Consent of the community ignored

The community consultations revealed that community members were not aware of the Sunkoshi-II (SU-II) hydropower project, while they were aware that another Marine Diversion project is planned to be built in Tamakoshi river in Manthali Municipality. The preliminary study on the feasibility and environmental impact assessment has been in fact done by the Department of Electricity Development (DoED) without Free, Prior and Informed Consent (FPIC) from the Majhi indigenous community and others in the community, although it is mandatory as a fundamental right of indigenous peoples.

“We were unaware of the dam construction for hydroelectricity; the authorities hid the project from us. Now, we will rise and resist it.”
- Majhi women from Kunauri and Bhataal

The impact of globalisation and corporate capture of the development agenda

The Asian Development Bank (ADB) had signed a loan agreement with the government to

fund the Detail Project Report (DPR) in 2014. However, the project has not started since ADB stepped back from the projects after the Japan International Cooperation Agency (JICA) requested the government to not move the projects forward, stating that the reservoirs of projects will inundate the Banepa Bardibas (BP) and Mid Hill Highways and other surrounding main roads. This shows that the corporate actors prioritise the protection of roads but not the rights and self-determination of the people who are directly going to be affected by the projects. The financial arrangement for the project is yet to be finalised, but Nepal Telecom has been presumed to be the highest shareholder. JICA has prioritised 13 hydropower schemes out of 52 schemes that had been identified on Sunkoshi and Saptakoshi rivers in Nepal in 1983-1985. And among the 13, SU-II is one of the Storage Type Hydropower Projects identified on the Sunkoshi River. Upon the construction of the dam, the Final Inception Report of feasibility study and environmental impact assessment of SU-II, 2019, reveals that a large area of agricultural land and about 45 km length of BP and about 20 km long Pushpalal Highway will be submerged by the reservoir of the project. Also, thousands of households will have to be resettled, and a new 75 km long road will have to be constructed on the right bank of the river. Majhi women and their community's land are under threat from the state's indiscriminate approach to infrastructural development.



As a result of the FPAR initiatives, two women's groups were formed for the first time in Kunauri and Bhatauli, which convened regular monthly meetings to discuss their agenda. With NIWF's support, the women's group built their capacities to engage with the local administration to voice their issues and demands and get support from other indigenous organisations. Through sharing their FPAR story, they were able to get support from women parliamentarians who committed to bringing up the issue in the parliament house. The group members were able to extend their awareness programmes to four other villages about the effect and impact of the hydropower dam project, and unified them to establish a common voice against the

dam construction. The women are working on an advocacy plan and a media campaign with the aim of influencing indigenous women parliamentarians and local authorities to stop the construction of the dam.



At the international/regional levels:

- Establish mechanisms to ensure and enforce Free, Prior and Informed Consent (FPIC) from Indigenous Peoples using the intersectional approach during the planning and implementation of any intervention by the Government, including the Local Government, private business companies and international development investors.

At the national level:

- The government should ensure the meaningful participation of civil society in policy and decision-making. The government should be committed to the implementation of international human rights conventions where it is a signatory.
- The government should make it mandatory to have ex-ante, periodic and ex-post gender, human rights and environmental impact assessments in every infrastructure development project. Such impact assessments must be conducted independently ensuring the participation of the concerned CSOs and communities. When any company is found to have violated human rights or fundamental freedoms of peoples, the government should strictly enforce sanctions and/or provide remedies.

At the local/community level:

- In addition to ensuring meaningful participation of liberal civil society members in the process of policymaking and its implementation, there should be consultation with local inhabitants before planning any development project to ensure their human rights and fundamental freedoms, including peoples' right to land.
- The local authorities should be accountable and responsible towards local peoples' rights and livelihoods with women's human rights and gender equality at the centre.

- The local government should proactively design and implement programmes, including awareness-raising programmes, promoting inclusive participation that pledge allegiance to human rights and intersectionality among Indigenous Peoples and women.
- The local government should formally recognise and protect the customary practices, rituals and cultures of the Indigenous Peoples.

For the private sector/company (if any):

- Private sectors should comply with national and international human rights and environmental policies and agreements. They should prioritise the local communities while working.
- More importantly, they should be sensitive to gender issues, in particular women's human rights, priorities and recommendations. Prior, meaningful and informed consultation with women and their communities from the planning to implementation and monitoring of any project must be in place.

About National Indigenous Women Forum (NIWF)

NIWF was founded in 1998 with an aim to develop an equitable and equal level platform for indigenous women and other marginalised minorities at local, regional and national levels. NIWF works at empowering and strengthening the capacity of indigenous women and enhancing their decision-making skills on economic, cultural, social and political issues.

Email: niwfnepal@gmail.com



About APWLD

Asia Pacific Forum on Women, Law and Development (APWLD) is the region's leading network of feminist organisations and individual activists. For 35 years, we have been carrying out advocacy, activism and movement-building to advance women's human rights and Development Justice. Email: apwld@apwld.org
Website: www.apwld.org

This publication was produced with support from the Norwegian Agency for Development Cooperation (Norad), Swedish International Development Cooperation Agency (Sida) and Foundation for a Just Society (FJS).