

**Comparative Analysis of Nepal's Legal Framework and ADB Safeguard Policy Statement: tenure
Indigenous Peoples**

(A) ADB Safeguard Policy Statement	Corresponding Legal Provisions	Extent of Equivalence
<p>Objectives: To design and implement projects in a way that fosters full respect for Indigenous Peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the Indigenous Peoples themselves so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.</p>		
	<p>ILO Convention 169¹ (ratified by Nepal in 2007)</p> <p>United Nations Declaration on the Rights of Indigenous Peoples (signed by Nepal in 2007) (non-binding)</p> <p>Constitution of Nepal, 2015²</p> <p>Preamble</p> <p>We, the people of Nepal, in exercise of the sovereign powers inherent in us...</p> <p>Embracing multi-caste, multi-lingual, multi-cultural and diverse geographical specificities, by ending discriminations relating to class, caste, region, language, religion and gender discrimination including all forms of racial untouchability, in order to protect and promote unity in diversity, social and cultural solidarity, tolerance and harmonious attitudes, we also express our determination to create an egalitarian society on the basis of the principles of proportional inclusion and participation, to ensure equitable economy, prosperity and social justice.</p> <p>Part 1. Preliminary</p> <p>6. Language of the nation: All the mother tongues spoken in Nepal shall be the national language.</p> <p>PART 3</p>	<p>Full Equivalence.</p> <p>Nepal is the only country in the Asia region to have ratified ILO Convention 169 and has prepared a Draft National Action Plan for its implementation.</p> <p>In addition, NEPAL was one of the original signatories of the UNDRIP.</p> <p>The Constitution of 2015 sets forth the principles of multi-lingual, multi-cultural identities and seeks to end and diverse geographical specificities, by ending discrimination relating to class, caste, region, language, religion and gender. With specific reference to Indigenous Peoples, the Constitution endorses the use of "special arrangements" to ensure the rights of indigenous ethnic groups to lead a dignified life with their respective identities, and making them participate in decision making processes that concern them and to preserve and maintain their traditional knowledge, skill, experience, culture and social practices.</p> <p>The Local Self Government Act seeks to</p> <p>Preamble:</p>

¹ Nepal was the first country in Asia to ratify the International Labour Organization (ILO) Convention 169, in 2007. However, according to the ILO little progress has been made in implementing the commitments that correspond to the provisions of the Convention.

² Nepal's current Constitution came into effect on Sept 20, 2015, replacing the Interim Constitution of 2007.

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	<p>Fundamental Rights and Duties</p> <p>18. Right to equality (1) All citizens shall be equal before law. No person shall be denied the equal protection of law. (2) There shall be no discrimination in the application of general laws on the grounds of origin, religion, race, caste, tribe, sex, physical conditions, disability, health condition, matrimonial status, pregnancy, economic condition, language or geographical region, or ideology or any other such grounds. (3) The state shall not discriminate among citizens on grounds of origin, religion, race, caste, tribe, sex, physical condition, disability, health conditions, matrimonial status, pregnancy, economic condition, language or geographical region, ideology and such other matters. Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or advancement of the women lagging behind socially and culturally, Dalits, <i>Adibasi</i> (indigenous groups).....</p> <p>32. Rights to language and culture: (1) Each person and community shall have the right to use their language. (2) Every person and community shall have the right to participate in the cultural life of its community. (3) Each community living in Nepal shall have the right to preserve and promote its language, script, culture, cultural civilization and heritage.</p> <p>51. State policies: The State shall pursue the following policies</p> <p>(j) Policies regarding social justice and inclusion: (8) Making special arrangements to ensure the rights of Adivasi Janjatis (indigenous ethnic groups)³ to lead a dignified life with their respective identities, and making them participate In decision making processes that concern them,</p>	<p>make provisions conducive to the enjoyment of the fruits of democracy through the utmost participation of the sovereign people in the process of governance by way of decentralization, Institutionalize the process of development by enhancing the participation of all the people including indigenous people for the purpose of enhancing social equality in mobilizing and allocating means for the development of their own region and in the balanced and equal distribution of the fruits of development.</p> <p>The National Foundation for Development of Indigenous Nationalities Act established the Foundation for Development of Indigenous Nationalities for the purpose of promoting I, economic and cultural development of various Indigenous Nationalities of Nepal and for their equal participation in the mainstream of national development</p>

³ Nepal's Act to establish the Foundation for Development of Indigenous Nationalities, (2002) lists 59 indigenous nationalities, of which 18 from the mountains, 24 from the hills, 7 from the Inner Terai and 10 from the Terai regions. According to the census of 2001, indigenous peoples comprise 38.8 per cent of the 23 million people in Nepal.

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	<p>and preserving and maintaining the traditional knowledge, skill, experience, culture and social practices of Adivasi Janjatis and local communities.</p> <p>Local Self Governance Act, 1999</p> <p>Preamble: Whereas, it is expedient to: Make provisions conducive to the enjoyment of the fruits of democracy through the utmost participation of the sovereign people in the process of governance by way of decentralization, Institutionalize the process of development by enhancing the participation of all the people including the ethnic communities, indigenous people and down trodden as well as socially and economically backward groups in bringing out social equality in mobilizing and allocating means for the development of their own region and in the balanced and equal distribution of the fruits of development.</p> <p>National Foundation for Development of Indigenous Nationalities Act, (2002) as amended⁴ (NFDINA)</p> <p>Preamble Whereas, it is expedient to establish and operate a Foundation for Development of Indigenous Nationalities for social, economic and cultural development and upliftment of various Indigenous Nationalities of Nepal and for their equal participation in the mainstream of national development, therefore be it enacted by the Parliament in the first year of the reign of His Majesty King Gyanendra Bir Bikram Shah Dev.</p>	
<p>Scope and Triggers: The Indigenous Peoples safeguards are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of Indigenous Peoples or affects the territories or natural or cultural resources that Indigenous Peoples own, use, occupy, or claim as an ancestral domain or asset. The term Indigenous Peoples is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are</p>		

⁴ Portions of FINDINA were amended by the Republic Strengthening and Some Nepal Laws Amendment Act (2010) and the Gender Equality Act (2006).

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<p>separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. In considering these characteristics, national legislation, customary law, and any international conventions to which the country is a party will be taken into account. A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.</p>		
	<p>NFDINA</p> <p>2. Definitions: Unless the subject or context otherwise requires, in this Act,</p> <p>(a) “Indigenous Nationalities” means a tribe or community as mentioned in the Schedule having its own mother language and traditional rites and customs, distinct cultural identity, distinct social structure and written or unwritten history.</p> <p>5.. Objectives of the Foundation: The Foundation shall have the following objectives:</p> <p>a) To make overall development of the indigenous nationalities by formulating and implementing programs relating to the social, educational, economic and cultural development and upliftment of indigenous nationalities;</p> <p>b) To preserve and promote the languages, scripts, cultures, arts, and histories of the indigenous nationalities;</p> <p>c) To preserve and promote the traditional knowledge, skills, technologies and special knowledge of the indigenous nationalities and to provide assistance in its vocational use;</p> <p>d) To cause the indigenous nationalities to be participate in the mainstream of overall national development of the country by maintaining a good relation, goodwill and harmony between different indigenous groups, castes, tribes and religious communities of Nepal; and</p> <p>e) To provide assistance in building an equitable society by making social, economic, religious and cultural development and upliftment of indigenous nationalities</p> <p>6. Functions, duties and powers of the Foundation:</p> <p>i) Collect, manage and disseminate information important to the indigenous communities;</p>	<p>Partial Equivalence</p> <p>The National Foundation for Development of Indigenous Nationalities Act defines “Indigenous Nationalities” to means “a tribe or community as mentioned in the Schedule having its own mother language and traditional rites and customs, distinct cultural identity, distinct social structure and written or unwritten history.” However it does not explicitly reference self-identification, customary economic and political institutions, collective attachment to geographically distinct habitats or ancestral territories in the project area and associated the natural resources.</p>
<p>Policy Principle: 1. Screen early on to determine (i) whether Indigenous Peoples are present in, or have collective attachment to, the project area; and (ii) whether project impacts on Indigenous Peoples are likely.</p>		
<p>Key Element Principle: 1. Screen early on to</p>	<p>No corresponding provision</p>	<p>No Equivalence</p>

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determine (i) whether Indigenous Peoples are present in, or have collective attachment to, the project area; and (ii) whether project impacts on Indigenous Peoples are likely		
<p>Policy Principle 2. Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples. Give full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures. Identify social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and inter-generationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.</p>		
<p>Key element (1): Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples.</p>	<p>National Environmental Impact Assessment Guidelines, 1993 23. Types of Environmental Impact: In connection with the process of environmental impact assessment, attention must be paid to the following impact categories: (a) <u>Socioeconomic Impact</u>: A study of socioeconomic impacts of the concerned project should be conducted to examine the activities that would bring about changes to the existing economic and social conditions of the communities within the project area or its vicinity. The socioeconomic impacts may be beneficial or adverse. (c) <u>Cultural Impact</u>: Attention should be paid to the impacts likely to be caused on cultural heritage by project activities. Areas of study should include historical and religious sites and traditional practices likely to be affected by project activities.</p>	<p>Full Equivalence The National Environmental Impact Assessment Guidelines require an assessment of socio-economic and cultural impacts on project-affected people.</p>
<p>Key element (2): Assessment process gives full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures.</p>	<p>No corresponding provision</p>	<p>No Equivalence</p>
<p>Key element (3): Assessment process identifies social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and intergenerationally inclusive.</p>	<p>National Environmental Impact Assessment Guidelines, 1993 23. Types of Environmental Impact: In connection with the process of environmental impact assessment, attention must be paid to the following impact categories: (a) <u>Socioeconomic Impact</u>: A study of socioeconomic impacts of the concerned project should be conducted to examine the activities that would bring about changes to the existing economic and social conditions of the communities within the project area or its vicinity. The socioeconomic impacts may be beneficial or adverse.</p>	<p>Partial Equivalence The National Environmental Impact Assessment Guidelines require an assessment of socio-economic and cultural benefits on project-affected people but does not require assessment of whether such benefits are culturally appropriate and gender and intergenerationally inclusive</p>

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	(c) <u>Cultural Impact</u> : Attention should be paid to the impacts likely to be caused on cultural heritage by project activities. Areas of study should include historical and religious sites and traditional practices likely to be affected by project activities.	
Key element (4): Project preparation process develops measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.	National Parks and Wildlife Conservation Act (1973) 3c. Compensation to be given : In case any house or land of a local resident located inside a buffer zone falls within the existing natural boundary of a national park	Partial Equivalence Compensation to residents for located inside a buffer zone falls within the existing natural boundary of a national park. Is limited to loss of house or land but no other provisions are made to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.
Policy Principle 3. Undertake meaningful consultations with affected Indigenous Peoples communities and concerned Indigenous Peoples organizations to solicit their participation (i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner. To enhance Indigenous Peoples' active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development. Establish a culturally appropriate and gender inclusive mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.		
Key element (1): Affected Indigenous Peoples communities and organizations are consulted in a meaningful manner.	Local Self Governance Act Section 8. Constitution of Village Council: (1) A Village Council shall be constituted in any village development area specified under Section 4. (2) The Village Council shall consist of the Members as.... (c) Six persons including one woman nominated by the Village Council from amongst those social workers, socially and economically backward tribes and ethnic communities, down trodden and indigenous people living within the village development area, belonging to the class whose representation 'm the Village Council does not exist and who are in possession of the required qualifications to become the Member of the Village Council under Section 10. 76. Constitution of Municipal Council: (2) The Municipal Council shall consist of the Members, as follows: (c) No less than 6 persons and no more than 20 persons	Partial Equivalence The Local Self Governance Act requires that a village council must include among its members six persons including indigenous people living within the village development area but does not require other measure to ensure that such consultation is "meaningful" with respect to the needs of such indigenous people.

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	<p>including woman nominated by the Municipal Council from amongst those social workers, socially and economically backward tribes and ethnic communities, down trodden and indigenous people living within the area of the Municipality, ...Provided, however, that out of the persons to be so' nominated, at least forty per cent persons shall have to be women.</p> <p>Buffer Zone Management Guideline, 1999 8. Arrangements Related to the Users' Committee</p> <p>(1) The users' committee will function as a mediator between the users' group and the council to conduct programs through the users' groups formed in their respective areas for natural resources conservation, community development along with utilization of forest products in accordance with the Regulation and this Guideline.</p> <p>Right to Information Act (2007)</p> <p>Chapter- 2 Right to Information and Provision Regarding the Flow of Information</p> <p>3. Right to Information: (1) Every citizen shall, subject to this Act have the right to information. (2) Every citizen shall have access to the information held in the public Bodies.</p> <p>4. Responsibility of a Public Body: (1) Each Public Body has to respect and protect the right to information of citizen. (2) Public Body shall have following responsibilities for the purpose of Sub-Section (1): (a) to classify and update information and make them public, publish and broadcast, (b) to make the citizens' access to information simple and easy, (c) to conduct its functions openly and transparently, (d) to provide appropriate training and orientation to its staffs, (3) Public Body may use different national languages and mass media while publishing, broadcasting or making information public in accordance with Section (a) of Section (2).</p>	
Key element (2): The scope of consultations includes design,	No corresponding provision	No Equivalence

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implementation and monitoring of measures to avoid or otherwise minimize, mitigate or compensate for adverse impacts.		
Key element (3): The scope of consultations includes tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner.	No corresponding provision	No Equivalence
Key element (4): To enhance Indigenous Peoples' active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development.	Buffer Zone Management Guideline Appendix-3 The Selection Procedure of the Executive Members of the Users' Committee 1. Two representative members of each user's group (male-1, female-1)	Partial Equivalence Cultural and gender inclusive measures are limited to the requirement for equal gender representation for Executive Members of Users' Committees for Buffer Zone management.
Key element (5): Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.	Compensation Act, 1963 3. Acquisition of any property: (3) A person who is not satisfied with the figure of compensation determined pursuant to Sub-section (2) may make a complaint to the Government of Nepal within Thirty Five days after the date of receipt of the notice of that determination, and the decision made by the Government of Nepal shall be final. Mediation Act (2011) 34. Community mediation: (1) There shall be mediators as may be required to facilitate for resolving disputes through community based mediation. (2) The mediators as referred to in Sub-section (1) shall provide assistance to parties for resolving disputes. (3) While providing assistance to parties pursuant to Sub-section (2), mediator shall motivate parties to reach to a consensus, to conclude an agreement which is acceptable for the both parties and not to take the settlement of disputes done through community based mediation as a win or loss. (4) Non-governmental organization working at local level may provide technical and other assistance, as may be required, to community based mediator for resolving disputes. (5) Meeting of the concerned community members shall frame necessary procedure for the purpose of resolving dispute through	Partial Equivalence The Compensation Act and the Mediation Act provide all citizens access to grievance mechanisms. However, such mechanisms are not designed to be a culturally appropriate or gender inclusive.

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	<p>community based mediation. (6) The result of the settlement of dispute done through mediation may be recorded in writing in the local body. (7) Other provisions relating to the settlement of disputes done through community based mediation shall be as prescribed</p> <p>35. Training and other technical service to be provided: (1) The concerned District Development Committee, Village Development Committee and Municipality may provide necessary technical service to community based mediator to settle dispute through community based mediation. (2) The Government of Nepal may mobilize national or local level nongovernmental or community based organization as per necessity to develop the expertise of community based mediator and to provide essential training for such mediators.</p>	
<p>Policy Principle 4. Ascertain the consent of affected Indigenous Peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. For the purposes of policy application, the consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities.</p>		
<p>Key element (1): Consent of affected Indigenous Peoples communities is required for project activities that would include commercial development of cultural resources and knowledge of Indigenous Peoples.</p>	<p>No corresponding provision</p>	<p>No Equivalence.</p>
<p>Key element (2): Consent of affected Indigenous Peoples communities is required for project activities that would include physical displacement of Indigenous Peoples from traditional or customary lands.</p>	<p>Compensation Act, 1963 3. Acquisition of any property: (1) The Government of Nepal may, if it considers necessary to acquire any property for the public interest, acquire that property</p>	<p>No Equivalence. No consent is required for physical displacement of Indigenous Peoples from traditional or customary lands.</p>
<p>Key element (3): Consent of affected Indigenous Peoples communities is required for project activities that would include commercial development of natural resources within customary lands under</p>	<p>No corresponding provision</p>	<p>No Equivalence.</p>

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use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples.		
Policy Principle 5. Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected Indigenous Peoples communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that their benefits are equitably shared.		
Key element (1): Project design avoids, to the maximum extent possible, any restrictions on Indigenous Peoples' access to, and physical displacement of Indigenous Peoples from, protected areas and natural resources.	Buffer Zone Management Guidelines 25. Miscellaneous: (4) While declaring a buffer zone on the basis of criteria stated in the Regulation or the Guideline, if any community forest area previously being used by any users' committee or group is included in the buffer zone, and the user live outside the buffer zone, the forest can still be used by the that users' committee or group. (2) No physical structures such as house, hut, shed of any kind can be constructed by anyone in the area or buffer zone forest handed over to users' committee or group in accordance with the Regulation. (3) If found violated in accordance with sub-section (1) and (2), the individual responsible for it should be ousted from the land encroached, the house or hut demolished and the expenses of demolishing should be recovered from the encroacher. Forest Act, 1963 17. No Person to have any Rights in the National Forest: Except when any right or facility has been obtained through a lease or permit or in any other way from Government of Nepal or the authority empowered by Government of Nepal, no person shall have any right or facility of any type in the National Forest. 19. Power to Close the Paths and Streams Within the National Forest: For the purpose of developing and conserving forest, Government of Nepal, or the authority empowered by Government of Nepal, may close any private or public path or stream within the National Forest. Provided that, before such closure, alternative paths or streams which are equally convenient shall have to be made available as far as possible.	Partial Equivalence The Buffer Zone Management Guidelines and the Forest Act provide for limited access to protected areas and natural resources within national forests and buffer zones. However, there are no special provisions made for Indigenous Peoples.

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	<p>34. Paths, Streams May be Closed within the Leasehold Forest In case any person's private or public paths or streams within the Leasehold Forest has to be closed, the concerned Lease Holder shall have to provide another path or stream as convenient as the former as soon as possible to such closure.</p> <p>Provisions Relating to the Community Forest 25. Handover of The Community Forest: (1) The District Forest Officer may handover any part of a National Forest to a Users' Group in the form of a Community Forest As Prescribed entitling to develop, conserve, use and manage the Forest and sell and distribute the Forest Products independently by fixing their prices according to Work Plan. While so handing over a Community Forest, the District Forest Officer shall issue a certificate of alienation of the Community Forest.</p>	
<p>Key element (2): Where avoidance is not possible, project designs ensure that the affected Indigenous Peoples communities can participate in the design, implementation, and monitoring and evaluation of management arrangements for such protected areas and natural resources.</p>	<p>No corresponding provision</p>	<p>No Equivalence</p>
<p>Key element (3): Where avoidance is not possible, project designs ensure that affected Indigenous Peoples communities share equitably in project benefits.</p>	<p>No corresponding provision</p>	<p>No Equivalence</p>
<p>Policy Principle 6. Prepare an Indigenous Peoples plan (IPP) that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected Indigenous Peoples communities. The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation; specifies measures to ensure that Indigenous Peoples receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.</p>		
<p>Key element (1): Prepare an Indigenous Peoples plan (IPP) that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous</p>	<p>No corresponding provision</p>	<p>No Equivalence</p>

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knowledge and participation by the affected Indigenous Peoples communities.		
Key element (2): The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation.	No corresponding provision	No Equivalence
Key element (3): The IPP includes specific measures to ensure that Indigenous Peoples communities receive culturally appropriate benefits.	No corresponding provision	No Equivalence
Key element (4): The IPP identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts.	No corresponding provision	No Equivalence
Key element (5): The IPP includes a culturally appropriate grievance redress mechanism.	No corresponding provision	No Equivalence
Key element (6): The IPP includes arrangements for monitoring during project implementation and for evaluation of results.	No corresponding provision	No Equivalence
Key element (7): The IPP includes a budget and time-bound plan for implementing all required actions.	No corresponding provision	No Equivalence
Policy Principle 7. Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected Indigenous Peoples communities and other stakeholders. The final IPP and its updates will also be disclosed to the affected Indigenous Peoples communities and other stakeholders.		
Key element (1): A draft IPP (including documentation of consultations with Indigenous Peoples communities and social impact assessment results) is publicly disclosed in a timely manner before project appraisal.	No corresponding provision	No Equivalence
Key element (2): The disclosed draft IPP is accessible to, and in a form and language(s) understandable to, affected Indigenous Peoples communities and	No corresponding provision	No Equivalence

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other stakeholders.		
Key element (3): The final IPP (and any subsequent updates) also are disclosed to affected Indigenous Peoples communities and other stakeholders.	No corresponding provision	No Equivalence
Policy Principle 8. Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.		
Key element (1): Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied.	<p>Forest Act 67. To be in the Land Ownership of Government of Nepal: The Community Forest, Leasehold Forest and Religious Forest pursuant to this Act shall be in the land ownership of Government of Nepal.</p> <p>Forest Regulation (1995) 26. Determination of The Community Forest:</p> <p>(1) The District Forest Officer shall have to take into account the distance between the Forest and the village and the wishes as well as the management capacity of the local users who have to manage the Forest, while handing over any part of a National Forest to a Users' Group as a Community Forest.</p> <p>(2) In case the local users or others have planted and protected trees on any public land outside National Forest area or in case the local users desire to plant trees on such land after constituting a Users' Group and obtaining the approval of the agency owning the land on the condition that the concerned agency itself retains the ownership of the land, the District Forest Officer may grant recognition to such Forest Area as a Community Forest.</p>	No Equivalence Provisions for continued access to community, leasehold and religious Forest is subject to land ownership by the Government of Nepal and do not include any provisions for legal recognition of customary rights to lands and territories or ancestral domains.
Key element (2): Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves involuntary acquisition of such areas.	No corresponding provision	No Equivalence
Policy Principle 9. Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPP monitoring. Disclose monitoring reports.		

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Key element (1): Monitor implementation of the IPP using qualified and experienced experts.	No corresponding provision	No Equivalence
Key element (2): Include arrangements for participatory monitoring whenever possible.	No corresponding provision	No Equivalence
Key element (3): Assess whether IPP objectives and desired outcomes are achieved, taking into account baseline conditions and monitoring results.	No corresponding provision	No Equivalence
Key element (4): Monitoring reports are disclosed.	No corresponding provision	No Equivalence