



**Joint Submission for Nepal's 4th Cycle Universal Periodic Review (UPR)
to the 51st session of the UPR Working Group
on
The Human Rights Situation of Indigenous Newa
people in Nepal**

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Joint UPR Submission by:
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Introduction

1.1 In this submission, **Community Empowerment and Social Justice Network (CEMSOJ)**¹, **Save Nepa Valley (SNV) Movement**² and *Thāe Bāe Yā Lwāpu*³ present key human rights challenges faced by Nepal's Indigenous Newa nationality, particularly in the context of “development” and business projects in Nepal and the systematic violations of rights to housing and property as well as cultural rights of Jugi community within the Indigenous Newa nationality of Nepal. The submission will accordingly examine the compliance of the Government of Nepal with relevant recommendations (in Annex 1) received during the 3rd and 2nd UPR cycles.

1.2 Newa (as they are called in Nepal Bhasa/Newa language and also popularly known as Newar) is one of the 60 officially recognized Indigenous nationalities (*Adivasi Janajati*) in Nepal. They are native to Nepa valley (also known as Kathmandu valley) and surrounding areas, which is considered their ancestral domain (Nepalmandal). They constitute at least 5% of the total national population and their civilization plays an important role in Nepal's cultural heritage. The groups making this submission are particularly concerned that Nepal's legislative processes and development policies and projects as well as private investments in the country violate the rights of Indigenous Newa and other communities and their overall well-being. While those affected Indigenous communities, particularly Indigenous women, have limited participation in decision-making processes in Nepal's State structures, we are further alarmed by restrictions on freedom of assembly in Nepal manifested through the use of excessive security force to suppress protests. This contributes lack of access to justice, which makes it further difficult for those groups to demand remedies for the harms they suffer.

1.3 In the sections below, while discussing the human rights challenges faced by Indigenous Newa communities, our assessment demonstrates that the Government has failed to effectively or fully implement the recommendations related to the rights of Indigenous Peoples, including to traditional lands and resources that are recognized by United Nations Declaration on Rights of Indigenous Peoples (UNDRIP), and freedom of assembly along with proper platform and recognition for redressing grievances with timely respond, among others. We accordingly draw specific, measurable and result-oriented recommendations to address to ensure sustainable development with respect for the rights of individuals and communities.

2. Guthi Bill and Encroachment of Newa Guthi Lands

2.1 Guthi is customary governance institution/system of Indigenous Newa communities. With land trusts, Guthis fulfill religious and socio-economic responsibilities, mainly through funds collected from cultivation of the leased land.⁴ Based on Guthi land tenure system, they are indispensable for the culture and identity of Newa communities with their origin traceable back to the fifth century. In April 2019, the Government of Nepal proposed a Guthi Bill aimed to nationalize all Guthis – public and private, consolidate all the acts and amendments related to Guthis, replace the Guthi Sansthan (a Government corporation responsible for management of all Guthi lands in the country) and to regulate all religious sites.

2.2 The Bill was criticized for being insensitive to and disregarding different kinds of Guthis and their functions in Newa society. Similarly, the Bill included ambiguous provisions about the proposed Guthi Authority to replace the existing Guthi Sansthan, which would be allowed to take over all rights and responsibilities of the Guthi and the existing members. The Bill would have taken precedence over all other rights, documents and past agreements, even court orders and allow anybody who had occupied Guthi land to acquire ownership certificates. Newa communities alleged that if the Government

nationalizes Guthis, it would cause a loss not only to centuries old Newa customs and traditions, but to their history and overall Nepali civilization.⁵ Thus, the Guthi Bill drew serious objection from Newa communities across Kathmandu valley and beyond, who held protests, mass meetings and rallies calling for immediate withdrawal of the Bill. Police initially tried to quell the protests by baton-charging protestors and even using water cannons. However, the protests only got bigger.⁶ On 19 June 2019, thousands of Nepalese took to the streets in Kathmandu demanding the Government scrap the Bill. As a result, the Government withdrew the controversial Guthi Bill from the Federal Parliament.⁷

2.3 In the follow up discussions of the Government on the Guthi Bill, the Unified Campaign against Guthi Bill presented the bottom-line of Newa people calling for autonomy for the Guthi system existing since ages in the ancestral domain of Newa communities as well as separate legal arrangement for Newa Guthi system that does not incorporate Guthi as only lands.⁸ Amidst COVID-19 pandemic, the Government's decision to form a committee to provide suggestions on Guthi issues in relation to the Bill⁹ drew criticisms from Newa organizations and groups for lack of consultation and information before such a decision. While the Government is still trying present a new Guthi bill in the parliament at the earliest, secrecy over its content as well as lack of meaningful participation in the drafting process has been continuing concerns of the Newa communities and Guthi representatives.¹⁰

2.4 Six years after massive protests forced the withdrawal of the controversial Guthi Bill that aimed to nationalize Newa Guthi lands without their Free, Prior and Informed Consent (FPIC), the Government has made no progress to protect the collective land rights of Newa communities by recognizing their Guthi and related land tenure system. This indicates that Nepal has failed to implement the recommendation it received in its 3rd UPR Cycle to “ensure that the rights of Indigenous communities regarding the use of their land are upheld through the revision of the legislation on this matter,” which it accepted. The unresolved Guthi Bill clearly leaves the collective lands and customary governance institutions of Newa people vulnerable to potential State encroachment in future.

2.5. At the same time, the Guthi lands have been continuously encroached and eroded at the hands of State, business and private actors, including due to recklessness or corruption of Guthi Sansthan officials and lack of effective legal protections and remedies. A representative example¹¹ is the **construction of Chhaya Center business complex in Kathmandu's tourist district of Thamel on the lands, including Kamal Pokhari (pond) and its surrounding areas, which originally belonged to and were used by a local Guthi.**¹² The encroachment of the Guthi lands, including the pond, over a century to convert them into private ownership and the subsequent construction of the complex were challenged in the courts. However, the construction continued unabated, and the Chhaya Center has already been operational while the cases are still currently sub-judice in Nepal's Supreme Court since 2014.

2.6 A local campaign to restore the Kamal Pokhari and supporting activists and groups registered complaints and petitions requesting investigation into encroachment of the pond to relevant Government authorities and the National Human Rights Commission and the Commission for the Investigation of Abuse of Authority but there has been no effective response from them. They also submitted information about violations of Indigenous rights due to the construction of the Chhaya Center to the country offices of the ILO and the UN as well as repeatedly to the relevant UN Special Procedures for their consideration and necessary actions.¹³

2.7 In response, in March 2021, the UN Special Procedures sent a joint allegation letter to the Governments of Nepal and the USA as well as the developer Chhaya Devi Complex Pvt. Ltd, and the US-based Marriott International, the franchise of which Aloft Kathmandu is the largest source of revenue for Chhaya Center

as it leases its fifth to fifteenth floors of the complex. While the Government of Nepal responded to the joint letter with no substantive and misleading information, Marriott International also replied that it had conducted its legal due diligence for its involvement with Chhaya Center and would assess its involvement after the Supreme Court decision on the land dispute. More recently, after their follow up communications were ignored, in May 2024, the Special Procedures, through a press release, drew attention to the reprisals and judicial harassment against the lead activist of the local campaign by those associated with Chhaya Center. They called on the Marriott International to immediately suspend its involvement with the Chhaya Center until the Supreme Court decision.¹⁴ However, Marriott has not heeded to it while Chhaya Devi Complex Pvt. Ltd even warned of legal recourse against the OHCHR objecting to the press release.

2.8 The campaign to restore the Kamal Pokhari and anonymous Nepali activists have also filed complaints against Marriott International and Zurich-based Visa Facilitation Services (VFS) Global with the National Contact Points of USA and Switzerland in August of 2023 and 2024 respectively. The complaints alleged violations of OECD Guidelines for Multinational Enterprises on Responsible Business Conduct by the Marriott and VFS Global due to their involvement with the Chhaya Center causing human rights impacts to Indigenous Newa communities. While the Marriott has not effectively engaged with the US NCP in response to the complaint, VFS Global, in December 2024, has informed the Swiss NCP of its decision to not extend its lease and relocate from Chhaya Center as soon as feasible¹⁵ – although it continues to operate from the complex.

2.9 While the above-mentioned encroachment of Guthi lands for construction of Chhaya Center indicates only the tip of the iceberg, **the Government has been appropriating the Guthi lands of Newa communities during illegitimate road expansion across Kathmandu valley¹⁶ as well as for construction of Fast Track Expressway and other infrastructure projects in historical towns of Khokana and Bungamati (see the section below). Such violations of rights of Indigenous Newa communities are evidence that the Government has failed to effectively implement the recommendation it received in the 2nd UPR cycle to “continue its efforts in adopting development policies which meet the needs of the people and improve the standard of living of the citizens in order to protect and promote human rights”.**

3. Kathmandu – Terai/Madhes Fast Track and other projects in Khokana and Bungamati

3.1 The Fast Track (Expressway) Project is a mega highway project considered as an “infrastructure of national pride” being constructed in Nepal. The 72.5 km long Fast Track runs along the Bagmati River corridor and is expected to cut the travel distance from the capital Kathmandu to the south of the country by 159 km as per existing roads.¹⁷ The Expressway is particularly contentious among Indigenous Newa communities of historical Khokana and Bungamati towns in Lalitpur where some 6 km of the Expressway will slice through farms and Guthi (religious and cultural trust) lands as well as ritual routes and sites of locals.¹⁸ The communities have been concerned about devastating impacts on their lands, livelihoods and cultures, among others, due to the Expressway that they have repeatedly raised in petitions to and discussions with the relevant authorities, including the National Human Rights Commission.¹⁹ However, their concerns have not been addressed even in the revised alignment of the Expressway endorsed by the Government in September 2019, whereby the Government has listed additional land parcels for acquisition in Khokana and Bungamati adjoining the land parcels notified for acquisition in 2016.²⁰

3.2 As noted during the Environmental Impact Assessment (EIA) of the Fast Track Expressway that was undertaken following a feasibility study as well as environmental and social assessment supported by the Asian Development Bank (ADB)²¹, “there was significant objection” to taking productive agricultural land for the Expressway in Khokana,²² where the locals had at different times in the past given up their

lands for various purposes but those were not often utilized accordingly while the locals received little benefits.²³ As per the EIA report obtained unofficially, the alignment on the west bank of the Bagmati River has significant advantages that avoid valuable agricultural lands in Khokana. The official copy of the EIA report is yet to be received from the Government authorities despite repeated requests by the affected families' representatives. The ADB has also not made the feasibility report available even to the media.²⁴

3.3 Besides the Fast Track Expressway, Kathmandu Outer Ring Road²⁵, Bagmati River Basin Improvement Project (Bagmati Corridor)²⁶ and Thankot-Bhaktapur Transmission Line Project²⁷ (construction of which has been halted in Khokana since 2004 due to community opposition while few transmission towers that were forcibly erected remain without wires) are other infrastructure projects, which sit right on the proposed alignment of the Expressway and concern the communities.²⁸ The latter two are also ADB-financed projects. The Government has also planned to build a “Smart City” in Khokana and Bungamati area – one of four such new cities proposed around Kathmandu valley with the aim to settle more than a million people. The EIA for the smart city in Khokana and Bungamati has also been suspended due to community opposition. Outer Ring Road and Smart Cities are projects under the Kathmandu Valley Development Authority (KVDA).²⁹ The communities' representatives claim that all those projects together will displace the Newar community of the area entirely, which have been affected due to land acquisitions for various public purposes at different times in the past.³⁰ Recently, there are also reports about Nepal-India Railway Project and petroleum pipeline and storage facility proposed or planned along or near the Fast Track Expressway entry point.

3.3 In April 2017, the Government decided to give the responsibility of construction of the Fast Track Expressway to the Nepali Army.³¹ Subsequently, the construction was started in other sections of the Expressway although the Detailed Project Report was only approved in 2019 while it is yet to acquire the necessary land plots in Khokana and Bungamati.³² Involvement of the Army in the project has led to insecurity and fear among Khokana and Bungamati locals opposing the project. It has also raised questions about the role of the Army in construction works vis-à-vis its influence in other sectors not related to security as well as corruption in the project (the cost of which has increased from USD 963 million to USD 1.75 billion) with involvement of some high-level officials of the Army, which is above the anti-corruption laws of the country.³³ In 2021, the project faced allegations of corruption with the Parliamentary Public Accounts Committee investigating irregularities in awarding contracts to two Chinese companies by the Nepali Army. The Committee's request to halt the awarding was however ignored. While the project costs have doubled due to mismanagement and delays, the Expressway construction has continued in sections other than Khokana and Bungamati amidst persistent allegations of corruption, mismanagement, and poor governance.

3.4 Khokana, where the zero point of the Expressway is proposed and the project faces the greatest opposition, is a small historical Indigenous Newa town. With its medieval settlement pattern, it is also widely known for its traditional mustard-oil seed industry and was proposed as a UNESCO World Heritage in 1996.³⁴ Majority of the locals are farmers dependent on agriculture and the land is the most essential part of life and livelihood for Khokana locals. But Khokana stands to lose almost 60% of its fertile farmland and much of its heritage to the new infrastructure projects.³⁵ That will result in extreme difficulty for the people as they will not be able to sustain their life. At the same time, the Expressway will encroach upon several ritual and sacred sites, historical and archaeological areas, temple fields/courtyards, funeral area or cremation site, cultural circuits and holy pond as well as displace various Guthi lands fully or partially in Khokana and Bungamati.

3.5 In February 2020, representatives of the affected communities and landowners of Khokana and Bungamati filed two writ petitions with the Supreme Court stating that the Expressway and other projects being constructed would destroy the ancient civilization of both towns and thus calling for the preservation of their traditional settlements. However, the Court hearings have been repeatedly delayed.³⁶ In July same year, the affected communities' bodies organized 'paddy transplantation protest' at the proposed entry point of the Expressway in Khokana. Rights activists from across Kathmandu valley participated in the protest after police suppressed earlier similar protest by the locals in June. While the protestors peacefully demanded to be allowed to cultivate the fields at the entry point area, clashes ensued when heavy police and armed police forces deployed tried to brutally suppress the protest. Over a dozen protestors were injured when police lobbed tear gas shells and charged batons – four police personnel were also injured.³⁷ **Such use of brutal police repression, which has continued across various peaceful protests across the country, demonstrates that the Government has failed to implement the recommendation it received during the 2nd UPR cycle to “ensure that freedom of assemblies is guaranteed and lift all restrictions on peaceful protests”.**

3.6 In response to information submitted by the affected communities, UN Special Procedures in March 2021 have also raised concerns with the Government of Nepal about imminent mass-scale forced displacement due to the Fast Track Expressway and other projects, lack of Free, Prior and Informed Consent (FPIC), and stalled legal remedies therefor. In May 2021, the Government responded to the Special Procedures with misleading and false information that the lands in Khokana and Bungamati had been acquired for the Expressway, which has been denied even in the project reports of the Nepali Army. Thus, in July 2022, the communities in Khokana and Bungamati again called on UN human rights bodies to intervene again, highlighting ongoing rights violations and the disruptive impact on their livelihoods.³⁸ While the Government has failed to respond to the follow up communications from the Special Procedures, the Government, in 2023, formed a high-level committee to address the unresolved land acquisition disputes for the Kathmandu–Terai/Madhesh Fast Track Expressway, but meaningful resolution has not occurred. During a public consultation organized by the local government as part of the process under the committee in Khokana on 24 August, the communities' representatives overwhelmingly rejected construction on their ancestral lands and called for the entry point to be relocated further south.³⁹ More recently, the Indigenous Nationalities Commission has also recommended the Government to change the entry point of the Fast Track Expressway from Khokana to further south. However, the Government is yet to address the demand of the communities.

4. Violation of property rights and housing crisis of Jugi community

4.1 Jugi community is a marginalized "low caste" group within the Indigenous Newa nationality of Nepal.⁴⁰ They also identified by surnames such as *Kapālī*, *Darśanadhārī* and *Kusle*. Since the Lichhavi period (400-750 CE), they have resided in *Satachhen* – multi-storied structures with open ground floors and residential spaces above.⁴¹

4.2 The Jugi community is mainly associated with death rituals of Newa society with their residences (*Satachhen*) near the junction of four or two roads in Newa settlements, where after a person's death, their clothes and other goods are offered. Similarly, when a child is born, their umbilical cord is offered at the junction. These offered goods are considered *impure*, thus, it is believed that the Jugis have tantric power to remove the *impurity* from these *impure objects*. Similarly, it is believed that the junction is abode to dangerous evil power. So, to overpower or take control of these evil spirits with their tantric abilities, they were provided with the place to reside in the *Satachhen*.

4.3 Further, Jugis were provided a place of residence in the *Satachhen* near temples for their assigned roles to take care of the temples' peripheries, which includes ensuring the safety, security and cleanliness of those temples. They play musical instrument known as *Mwāeli* - a long tubular instrument played by blowing air into it, which is considered significant for any auspicious work. There is a belief that the musical instrument has the power to attract deities, and therefore to play these musical instruments in temples, they were assigned residences in *Satachhen* near or around the temples.

4.4 The Jugi community people have been residing in the *Satachhen* since the Lichchhavi period (400-750 CE) performing their spiritual and traditional practices, and contributing significantly in the community since a long period back. Historical archives and Newa organizations' statements mention 17 *Satachhen* where Jugi families have resided (displaced) or are residing for centuries performing their spiritual and traditional practices, and contributing significantly to Newa communities. So, *Satachhen* is traditionally owned property of the Jugi community, where they have resided and carried out their traditional occupation, tailoring in the *Sattal* till date.

4.5 However, presently, the Jugi community faces systematic violations of their right to housing and property due to misclassification of their traditionally owned residences (*Satachhen*) as public property (*Paati Pauwa*). Due to lack of government knowledge on underlying differences between the structures of *Satachhen* and *Paati Pauwa*, *Satachhen* has been kept under the status of legal status of 'public property'. The ownership of these *Satachhen* has accordingly been vested in the Government of Nepal. This has left the Jugi people without any legal rights in the place they have called home since generations. Accordingly, Jugi families are facing forced evictions, displacement, and erosion of cultural identity endured by the Jugi community.

4.6 At the same time, "high caste" Newa groups often register *Satachhen* under their Guthi (customary institutions), seen as sacred and untouchable, to secure ownership and block Jugi legal claims. The Jugi community's unique spatial distribution within Newa society exacerbates their marginalization. Unlike other "untouchable" castes relegated outside city walls, Jugi families live in *Satachhen* within town neighborhoods, but their small numbers, often just one or two families per neighborhood, render them a demographic minority. This makes it nearly impossible for Jugi representatives to gain decision-making roles at the ward level, even in predominantly Newa areas, without affirmative action. Consequently, local governments, dominated by high-caste Newa decision-makers, actively displace Jugi families, while higher government levels fail to address this local hegemony, perpetuating the Jugi's exclusion and vulnerability.

4.9 Similarly, land registration in Nepal (B.S. 1871–1903) occurred during a period when the State-sanctioned caste system deeply influenced land ownership, exacerbating the marginalization of the Jugi community. Historical grievances from the Newa community remain unaddressed, with the Jugi's issues particularly ignored. Limited access to education, negligible participation in State mechanisms, and economic marginalization stemming from reliance on declining traditional occupations like tailoring restrict their ability to secure alternative housing when evicted from their residences (*Satachhen*). Linguistic marginalization, with the State's adoption of the Khas (Nepali) language, further isolates Jugi elders who primarily speak Nepal Bhasa, hindering their engagement with government processes. These intersecting factors – caste, economic, and linguistic exclusion – perpetuate the Jugi community's housing crisis, leaving them without representation or resources to challenge evictions.

4.10 All the above-mentioned factors have resulted in Jugis being squatters in their own homes, and many times homeless and landless. Different levels of State (mostly federal and local) have evicted the Jugi families on the grounds that the *Satachhen* they live in are 'public property' under State's ownership. The

community, reliant on oral traditions due to historical exclusion from education, lacks legal documentation for their residences (*Satachhen*), making them vulnerable to evictions. The State's classification of *Satachhen* as public property (*Paati Pauwa*), without consulting or obtaining consent from the Jugi, has led to their labeling as "illegal settlers" and "encroachers," despite their centuries-long residency predating promulgation of relevant laws. Post-2015 earthquake, local governments exploit this lack of paperwork to evict Jugi families during rebuilding efforts, offering no alternative housing or possibility of return. The State's un-inclusive land ownership laws, which fail to account for diverse cultural realities, create this "paper-less" crisis, blocking judicial remedies as courts dismiss Jugi claims for lack of documentation. This systemic neglect, rooted in disregard for their historical and cultural context, leaves Jugi families homeless and marginalized, with the state exploiting their vulnerability rather than addressing its own shortcomings.

4.11 Further, this has resulted in Jugi families being at risk of criminalization since the Penal Code states that personal utilization of any public property is a crime.⁴² However, in many cases, the courts have ensured the right to usage, based on customary, traditional and ritual activities. But such right solely is not sufficient, in context of modern day's livelihood needs. Without ownership, Jugi people shall always be subjected to being in threat and risk of eviction from the State and be treated as a disposable community.

4.12 The Jugi community, through *Thāe Bāe Yā Lwāpu*, has repeatedly sought redress for their housing crisis by petitioning various government bodies, commissions, and courts, but has faced significant obstacles. The Ministry of Law, Justice and Parliamentary Affairs and the Office of the Prime Minister did not act upon their petitions made in 2025. The Ministry of Land Management dismissed their claims submitted in 2023 and 2024, citing *Satachhen* as public property (*Paati Pauwa*). The Federal Parliament neither discussed nor decided about the issues despite follow-ups. The Bagmati Provincial Government failed to register or act on the petitions. Earlier, in 2024, the Committee on Industry, Tourism and Environment in the Provincial Parliament had urged action on Jugi housing issue but that was deflected by the National Land Commission citing lack of jurisdiction. The petitions to 23 Municipalities in Kathmandu, Lalitpur, Bhaktapur, Kavrepalanchowk, Makwanpur, and Dolakha districts from 2023–2024 received limited responses, with some citing no records. The 15 families' petitions made to the National Human Rights Commission are still under consideration. The Indigenous National Commission refused to take-action citing lack of jurisdiction, where a mandamus order in Patan High Court is still pending. The Language Commission recognized the misclassification of *Satachhen* as *Falcha* (*Paati Pauwa*) and recommended legal amendments, but implementation was stalled. The National Law Commission declined to act citing individual petitions are not processed. The National Inclusion Commission dismissed the issue stating that Jugi are part of the Newa nationality. Ongoing judicial efforts have delivered mixed outcomes. Bhaktapur District Court (2019) and Supreme Court (2010) granted ownership based on generational usage, but Kathmandu District Court (2012) annulled ownership, granting only usage rights, upheld by Patan Appellate Court. Patan High Court (2024) and ordered protection for the Jugi, but other cases were dismissed for lack of documentation. A Supreme Court review (2024) is ongoing for a Lalitpur case. For documentation purposes, the right to information petitions were made to the National Archives, Department of Archeology, and Guthi Sansthan, but yielded no progress or formal records.

4.13 More recently, in April 2025, information regarding the violations of rights to housing and property of Jugi community have been submitted to the relevant UN Special Procedures. The housing crisis of Jugi community violates a robust framework of international and national legal protections, including the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which prohibits forced removal, affirms rights to housing and traditional lands, mandates legal recognition of Indigenous land tenure systems, and guarantees restitution or compensation for confiscated lands (Articles 10, 21, 26, 27 and 28). Similarly, ILO Convention 169 recognizes

traditional land ownership and obligates state protection (Article 14). The International Covenant on Economic, Social and Cultural Rights (ICESCR) ensures adequate housing (Article 11), and the International Covenant on Civil and Political Rights protects against arbitrary interference with homes and upholds minority cultural rights (Articles 17 and 27). The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) guarantees housing rights and non-discrimination (Article 5). Other conventions, including CEDAW, CRC, and CRPD, and the UN Principles for Older Persons also affirm housing rights for women, children, persons with disabilities, and older persons. The 2030 Agenda for Sustainable Development (SDG 11, Target 11.1) and SAARC Social Charter further emphasize safe, affordable housing and social justice for marginalized groups. Domestically, Nepal's Constitution (Articles 37, 25, 16, 18, 24, 32, 46) guarantees housing, property, dignity, equality, non-discrimination, cultural rights, and constitutional remedies, with Article 51(j) mandating indigenous participation and protection of traditional knowledge. The Right to Housing Act (2018) defines housing and mandates respect for these rights. The State's failure to recognize the Jugi community's historical occupancy and cultural significance of *Satachhen* contravenes these legal obligations, perpetuating systemic injustice and cultural erasure.

6. Legislative and Institutional Framework of Nepal

6.1. Indigenous peoples' organizations and supporting human rights organizations have consistently alleged that the current 2015 Constitution of Nepal has been drafted without direct and meaningful participation of indigenous peoples ignoring the relevant recommendations from various UN mechanisms as well as international human rights obligations of Nepal. Thus, despite various agreements with indigenous political and social groups by the Government of Nepal, the Constitution has failed to ensure their rights to self-determination through autonomy and self-governance, and to their lands, territories and resources, among others.⁴³ State security forces were deployed, particularly against Madhesi and indigenous Tharu protestors in southern Nepal to suppress their opposition when adopting the Constitution. That resulted in 55 persons killed and many charged falsely for breaching law and order or homicide and other criminal charges.⁴⁴

6.2. The Constitution gives undue recognition and protection to the Khas Arya (Hindu caste Bahun, Chhetri, Sanyasi and Thakuri) groups that constitute 28 percent of Nepal's population but have their share of participation in civil service at more than double of their total population.⁴⁵ That is despite the increase in the participation of women, indigenous nationalities, Dalits, Madhesis and other marginalized groups in the public service due to a 2007 amendment to the Civil Service Act mandating reservations for those groups in 45% of the vacant posts filled through open competition. However, the Government has not made a serious effort to diversify the public service and arguably has been reversing or ignoring legal provisions. For example, in May 2019, the Public Service Commission hosted one of the largest recruitment programs for over nine thousand vacancies for local bodies – of which only 2,262 were advertised as reserved, violating the 45% quota that the Commission managed to push through by evoking the “principle of necessity”.⁴⁶

6.3. Nepal voted in favour of the adopting the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) at the UN General Assembly in 2007 and is also the only Asian country to ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO). While Nepal's Constitution and laws are not in line with those international human rights standards for indigenous peoples, Nepal is yet to formulate necessary laws, policies and action plans or amend existing laws to confirm with or implement those international obligations even after more than a decade since voting in favor of the UNDRIP or ratifying the ILO C169. Recently, in 2024, Nepal's Supreme Court

ordered federal and provincial governments and parliaments as well as local bodies to formulate necessary laws and policies for implementation of the ILO C169 and the UNDRIP, as well as the federal parliament and the concerned ministry to enact, amend or reform current bills in the parliament in line with the ILO C169 and the UNDRIP.⁴⁷ Earlier, the Supreme Court had also the Government of Nepal to undertake construction of any projects in the coming days by giving consideration to the ILO C169, UNDRIP, UN Guiding Principles on Business and Human Rights and Universal Declaration on Human Rights that Nepal has ratified or committed to.⁴⁸ **In its 2nd UPR cycle, Nepal received recommendations to “continue to ensure the implementation of ratified human rights treaties” which it supported. However, as demonstrated above, it is yet to formulate necessary laws, policies and plans to ensure implementation of the ILO Convention 169 that it ratified more than a decade ago. Thus, the implementation has not been implemented.**

7. Recommendations to the Government of Nepal

7.1. The groups making this joint submission call for the following specific recommendations to be made to the Government of Nepal to guarantee human rights-based sustainable development in the country.

A. Regarding Guthi Bill and encroachment of Guthi lands

- a. The Government should recognize the rights of indigenous peoples to maintain and develop their own customary systems and institutions such as the Guthi of Newa people with separate legal arrangement and autonomy for Guthis, including full ownership and control of their lands and resources and management of their internal and local affairs.
- b. The Government, in conjunction with the concerned Indigenous communities and their customary and representative institutions, should undertake appropriate measures to identify, demarcate and title their traditional lands and resources as well to return such lands and resources lost by the communities to State, business or other actors, where feasible, or provide effective remedy for such loss if return is not possible.

B. Regarding the Fast Track Expressway and other “development” projects

- a. In the context of “development” projects such as Kathmandu Valley Road Improvement Project, Kathmandu – Terai/Madhesh Fast Track Project, Kathmandu Outer Ring Road, Smart Cities, Bagmati River Basin Improvement Project, and Thankot – Bhaktapur Transmission Line Project affecting Indigenous Newa and local communities, the Government, in line with the recommendations of the Committee on the Elimination of Racial Discrimination (CERD)⁴⁹, Committee on Economic, Social and Cultural Rights (CESCR)⁵⁰ and the Special Rapporteur on the rights of Indigenous Peoples⁵¹, should
 - i. adopt appropriate measures to ensure that the concerned Indigenous communities are meaningfully consulted, through their own representative institutions, and to obtain their Free, Prior and Informed Consent (FPIC) before launching any development project as well as in the planning and undertaking of such a project that affects their traditional land or resources.
 - ii. provide redress to the communities or affected families for their loss of land or access to natural resources (such as fair and adequate compensation for those forcibly evicted or whose houses were demolished for road expansion or return of land already acquired in Khokana and Bungamati for Fast Track Expressway) incurred without their free, prior and informed consent when that loss has occurred by the establishment of development projects’.
- b. With regards to private and communal lands and resources of Newa and other Indigenous communities acquired in the past for various purposes such as “development”, business or other projects, the Government should return them to the original landowners if those lands and resources are not used in their original purpose or the concerned landowners or communities do not agree with the changed purpose of the land or resource use in line with national and international legal obligations of Nepal.

C. Regarding the housing crisis of Jugi community

- a. The Government should ensure that the Jugi families residing in *Satachhen* since generations are allowed to continue their residence and immediately halt any form of action that contributes or causes the displacement and eviction of Jugu community from the *Satachhen*.
- b. The Government should review registration of *Satachhen* as *Paati* (public property) through meaningful consultations with the Jugi community's representatives and undertake necessary documentation of those structures. Accordingly, *Satachhen* should be registered as "*housing*" of the concerned family. In case where *Satachhen* have been registered as under the ownership of the government or any Guthi, such registration should be nullified or voided.
- b. The Government should not use re-building of these *Satachhen* as an excuse to evict the residents. Rather, if the Government deems the structure necessary to be rebuilt, the process of re-building must ensure involvement of the resident family of Jugi community in its decision making, with a provision of alternative housing during the process of rebuilding and ensuring the return after the structure is rebuilt. In exceptional situations where return is not possible, those families should be provided with a permanent residence elsewhere, and as close as possible to their traditional, ancestral, historical home.

D. Regarding legislative and institutional framework

- a. The Government should, in conjunction with representative institutions of Indigenous Peoples, undertake a comprehensive program for amendments to the constitution and existing laws or formulation of necessary new laws, policies and plans for implementation of Nepal's commitments under the ILO Convention 169 and the UNDRIP. Such program should particularly ensure the rights of Indigenous Peoples to their lands, territories and resources, to FPIC, to development and to self-determination, including for Indigenous women, in line with the recommendation of the Committee on the Elimination of Discrimination against Women (CEDAW)⁵².
- b. The Government should strengthen implementation of those provisions to ensure access by members of marginalized indigenous communities, particularly Indigenous women, to employment in civil service and public institutions.

1 **CEMSOJ** is an apolitical, informal and not-for-profit network of human rights and development activists. Founded in 2015, it works mainly for socio-economic empowerment and promotion of social justice and human rights of marginalized groups of Nepal, including indigenous peoples, Madhesis, Dalits, persons with disabilities, rural people and urban poor – with particular focus on women, children and youth of those groups, towards a just and peaceful society.

2 **Save Nepa Valley movement**, initiated in 2017, is a youth-led affiliation of activists, who advocate for an alternative and comprehensive development that respects human rights of all citizens, instead of exclusive infrastructure building, commercialization and urbanization that only serves the interests of a select few in power.

3 A community-led advocacy network formed by families of the Jugi community residing in their traditional abode of *Satachhen* within historical Newa settlements of the Kathmandu Valley, Nepal.

4 <https://www.nepalisansar.com/news/nepal-guthi-bill-2019-history-provisions-protests/>

5 <https://www.culturalsurvival.org/news/indigenous-peoples-force-withdrawal-guthi-bill-nepal>;

<https://thehimalayantimes.com/kathmandu/government-withdraws-the-guthi-bill/>

6 <https://www.aljazeera.com/news/2019/06/thousands-nepal-protest-cultural-guthi-bill-190619121216425.html>

7 <https://thehimalayantimes.com/nepal/government-withdraws-controversial-guthi-bill/>. It should also be noted that the Guthi Bill is only the latest challenge faced by Newar Guthi system, which is a social management customary institution with land endowments for religious and cultural purposes. The ancient and unique practice that sustained the agrarian Newar community had been passed down for generations. At various points in Nepal's history, both the State and its rulers have occupied or nationalized Guthi-endowed lands for personal or state use – such as for Rana-era palaces, Government buildings, etc. That have wiped out many Guthis and resulted in financial crises impacting heritage conservation. In 1964, when the Guthi Sansthan was created to nationalize all Guthi lands to generate revenue by leasing them out, there was little opposition then as public unrest was easily suppressed those days. Today, the Sansthan currently oversees 1.45 million ropanis of land across the country with some 2,335 public Guthis under it. The Sansthan still does out the same amount of money that it did in the '60s causing serious financial burdens for the Guthis and the heritage preservation they entail.

<https://kathmandupost.com/valley/2019/06/14/everything-you-need-to-know-about-the-guthi-bill>

8 <https://pahilopost.com/content/20200106180036.html> [In Nepali]

9 <https://english.onlinekhabar.com/govt-forms-team-to-recommend-suggestions-on-guthi-issues.html>

10 <https://theannapurnaexpress.com/news/secretcy-over-the-new-guthi-bill-adds-to-old-suspicion-2236>

11 Another example is the recent decision of the Guthi Sansthan to demolish the medieval religious, commercial and residential complex of **Kothunani**, including the Ashok Briksha Vihara (Buddhist temple) dating back to the 12th century, in Asan – the historical economic center of Kathmandu. The decision involves renting out the complex belonging to a local Guthi to a private company for 25 years to replace it with a corporate building. As a result, the local Newars and others as well as cultural heritage activists have agitated against the decision, including through demonstrations and collection of signatures of around 15,000 people against the Guthi Sansthan decision. See <http://therisingnepal.org.np/news/31048>; <https://www.youtube.com/watch?v=ZlpwVZVrFfE&feature=youtu.be> (in Nepal Bhasa)

12 The pond covering the land was gradually encroached upon and privatized by a dictatorial Rana ruler and his inheritors, including influential businesspeople, over more than a century. Despite wide public criticism and protracted court battles, the cultural heritage of the pond has now been replaced by a multiplex tower that local Newars and cultural activists have challenged in the Supreme Court to be demolished on the basis of historical evidence while the Court has repeatedly postponed and delayed hearings on the case sub judice for years now. See <https://myrepublica.nagariknetwork.com/news/how-kamalpokhari-land-morphed-into-chhaya-center/>;

<https://myrepublica.nagariknetwork.com/news/117-year-battle-to-save-thamel-s-kamalpokhari/>;

<https://www.corporatenepal.com/2020/01/160742/> [In Nepali]

13 <https://cemsoj.net/human-rights-advocacy/restore-paleswa-pukhu-in-thamel/>

14 <https://www.ohchr.org/en/press-releases/2024/05/nepal-retaliations-against-human-rights-defenders-over-business-complex>

15 <https://cemsoj.net/2024/12/23/vfs-global-decides-to-relocate-from-the-premises-at-the-chhaya-center-in-kathmandu-as-soon-as-feasible/>

16 <https://www.lahurnip.org/kathmandu-valley-road-expansion-widening-projects>

17 <https://www.nepalarmy.mil.np/fasttrack/home>

18 <https://www.nepalitimes.com/banner/our-land-is-us-we-are-our-land/>; <https://www.recordnepal.com/wire/fast-track-brings-fear-of-displacement-to-khokana/>

19 <https://cemsoj.wordpress.com/2016/09/26/khokana-newars-complaint-nhrc-human-rights-fast-track-highway/>

20 <https://thehimalayantimes.com/nepal/kathmandu-tarai-fast-track-dpr-okayed/>

21 See <https://www.adb.org/projects/documents/nepal-40011-012>

22 <http://www.mopit.gov.np/files/download/Printed%20EIA%20report%20of%20Fast%20Track%20Jestha%2072.pdf>

23 One such example is the acquisition of around 400 ropanis of land in Khokana undertaken by the Nepali Army few decades ago for a paragliding project, which was never utilized accordingly but most of the land was later sold to a buyer. See

<https://cemsoj.wordpress.com/2016/09/26/khokana-newars-complaint-nhrc-human-rights-fast-track-highway/>

24 See <https://www.recordnepal.com/fast-track-brings-fear-of-displacement-to-khokana>

25 <http://kathmandupost.ekantipur.com/news/2017-01-25/works-on-chobhar-satungal-stretch-to-start-in-feb.html>

26 <https://www.adb.org/projects/43448-013/main>

27 <https://www.adb.org/projects/documents/rural-electrification-distribution-and-transmission-project-resettlement-plan-thankot>

28 See <https://nepalitimes.com/banner/our-land-is-us-we-are-our-land>

29 See <https://www.kvda.gov.np/>

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- 30 <https://www.nepalitimes.com/banner/our-land-is-us-we-are-our-land/>; <https://www.recordnepal.com/wire/fast-track-brings-fear-of-displacement-to-khokana/>
- 31 <https://kathmandupost.com/national/2017/08/12/fast-track-project-handed-over-to-army-officially>
- 32 <https://thehimalayantimes.com/nepal/kathmandu-tarai-fast-track-dpr-okayed/>
- 33 <https://www.recordnepal.com/wire/fast-track-brings-fear-of-displacement-to-khokana/>;
<https://www.recordnepal.com/perspective/opinions/occupy-tundikhel-help-democratize-the-nepal-army/>
- 34 <https://whc.unesco.org/en/tentativelists/844/>
- 35 <https://www.nepalitimes.com/banner/our-land-is-us-we-are-our-land/>
- 36 <https://cemsoj.wordpress.com/2020/02/13/the-struggle-to-save-khokana-and-bungmati/>
- 37 <https://kathmandupost.com/visual-stories/2020/07/04/four-policemen-injured-in-clash-with-locals-in-khokana>
- 38 <https://cemsoj.wordpress.com/2022/07/10/indigenous-newar-communities-in-khokana-and-bungamati-call-for-follow-up-actions-from-un-experts-in-geneva-to-protect-their-rights-threatened-by-the-construction-of-fast-track-expressway-and-other-inf/>
- 39 https://onlinemajdoor.com/?p=97197&fbclid=IwY2xjawHWE0VleHRuA2FlbQlXMQABHc6GcsXzyOgiL4WSqcAiLjFY0VmDD1XmDU0Dv_8iAaSYNgd9ZPmiSo72g_aem_Y27kxbAxCSTPsWKK8_ZxCw
- 40 The *National Indigenous Nationalities Commission Act, 2017 C.E. (1137 N.S., 2074 B.S.)*
- 41 Dhan Bahadur Kunwar completed his Ph.D. for Nepali History, Culture and Archaeology, and in his Ph.D. thesis he notes that *Jugi people have been living in Satachhen since the Licchavi period.*
- 42 National Penal (Code) Act, 1137 N.S. 2074 B.S. 2017 C.E, Article 148.
- 43 The 2015 Constitution is considered regressive from the 2007 Interim Constitution with regards to ensuring the rights of indigenous peoples and respecting their historical/ancestral domain in the new federal structure of Nepal and even termed as “promoting racism”. For example, the 2015 Constitution reverses the endorsement of Nepali State as secular with an explanatory provision that defines secularism as protection of *Sanatan* (“Hindu”)[i] religion and culture (Article 4(1)) while continuing Hindu cultural symbols as national emblems that negatively affects non-Hindu indigenous peoples. Similarly, while the Constitution does not provide any recognition for the rights of indigenous peoples, it affords special undue recognition for dominant “Khas Arya” (Hindu caste Bahun, Chhetri, Sanyasi and Thakuri) groups that are also affirmed proportional representation in State structures under the principle of inclusion. See Alternative Report of the Indigenous Peoples of Nepal to the Sate Report Submitted by the Government of Nepal to the Committee on the Elimination of Racial Discrimination <https://www.lahurnip.org/uploads/articles/Indigneous%20Peoples-CERD%20Alternative%20Report-2018.doc>
- 44 Alternative Report of the Indigenous Peoples of Nepal to the Sate Report Submitted by the Government of Nepal to the Committee on the Elimination of Racial Discrimination <https://www.lahurnip.org/uploads/articles/Indigneous%20Peoples-CERD%20Alternative%20Report-2018.doc>
- 45 <https://kathmandupost.com/national/2019/11/12/brahmins-and-chhetris-continue-to-dominate-entry-into-civil-service;>
http://www.samabeshifoundation.org/wp-content/uploads/2017/07/Inclusion-Watch_English.pdf
- 46 <https://www.recordnepal.com/featured/the-anti-reservation-brigade/>
- 47 Shankar Limbu et al VS Office of the Prime Minister and Cabinet of Ministers, 074-WO-0053
- 48 Datta Singh Banet VS Office of the Prime Minister and Cabinet of Ministers, 074-WO-1031
- 49 CERD/C/NPL/CO/17-23 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/NPL/CO/17-23&Lang=En
- 50 E/C.12/NPL/CO/3 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/NPL/CO/3&Lang=En
- 51 A/HRC/12/34/Add.3 https://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-34-Add3_E.pdf
- 52 CEDAW/C/NPL/CO/6 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/NPL/CO/6&Lang=En