

# Position Paper on Indigenous Women's Land Rights



National Indigenous  
Women's Federation (NIWF)



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## **National Indigenous Women's Federation (NIWF)**

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# Position Paper on Indigenous Women's Land Rights

## Introduction

Acknowledging the inherent inalienable, indivisible, universal and fundamental human rights and freedom of every human being,

Acknowledging the rights of every person, women, indigenous peoples including indigenous women as guaranteed by international Human Rights Laws and Instruments, specifically Treaties, Conventions, Covenants, Declarations including Convention on Elimination of All Forms of Discrimination against Women (CEDAW), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on Elimination of Racial Discrimination (ICERD), United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), International Labour Organization Convention no. 169, Beijing Declaration and Plan of Action, United Nations Security Council Proposal no. 1325 and 1820, Outcome Document of the World conference on Indigenous Peoples (WCIP), and Articles 8(j) and 10(c) of the Convention on Biodiversity (CBD),

Considering the Beijing Declaration of Indigenous Women, 1995,

Securing achievements from various movements including people's movements, indigenous peoples' movement, and indigenous women's movements, and



A Chepang house destroyed by the Chitawan National Park

Affirming our solid commitment to protect and defend our collective rights at all cost including our right to self-determination, autonomy, self-governance, customary laws, ownership and control over ancestral lands, territories and resources, and for gender equity and equality in the Constitution of Nepal. Indigenous women are integral to the collective rights of indigenous peoples over their lands, territories and resources. As such, they are co-owners, managers and part of the decision-making process on the use, management and development of indigenous peoples' collective lands, territories and resources. At the same time, indigenous women also have the right to individual land rights within the collective lands, territories and resources of indigenous peoples.

We, the indigenous women of Nepal have come up with this position paper on indigenous women's land rights in order to develop common understanding on our

collective and individual land rights and to make our positions on indigenous women's land rights clear to the state and the government (federal, province and local), private companies, non-governmental organizations, women rights leaders and activists, indigenous peoples' movements and organizations, international development partners and others; and to strengthen and advance powerful movements from community to national to international levels on the recognition and protection of our rights to our lands, territories and resources as integral part of indigenous peoples, and as women with individual rights affirmed by international human rights instruments.

## **Positions**

**Position 1:** Let no one violate, interfere, deny, abuse, non-comply or ignore we indigenous women's collective human rights related to lands, territories and resources as these are our inalienable, indivisible, natural, inherent, universal and fundamental human rights and freedom.

**Position 2:** Let there be no obstacle to indigenous women to transfer to our next generation our ancestral lands, territories and resources along with our collective ways of life.

**Position 3:** Let no one violate, interfere, deny, abuse, non-comply or ignore indigenous women's existence, identity, peace and prosperity that are fully interdependent with our collective ownership and control over our lands, territories and resources.

**Position 4:** Let no one create any obstacle or interference or criminalize economic empowerment activities based on customary livelihood systems, indigenous knowledge,

skills, technology and innovations; and its practices that are dependent or linked to our lands, territories and resources.<sup>1</sup>

**Position 5:** Let no one create any obstacle or interfere in the full exercise of our rights to self-determination, autonomy and customary self-government systems, such as Guthi, Badghar/Bhalmansa/Matawa, Ghampa, and Majhihadam, which are essential in the collective governance and management of indigenous peoples' lands, territories and resources.<sup>2</sup>

**Position 6:** The outsiders, including the State, private companies, and international development partners, cannot and should not make any administrative or legal or development measure without getting our Free, Prior and Informed Consent (FPIC) of indigenous women, in line with the United Nations Declaration on the rights of Indigenous Peoples (UNDRIP), in our lands, territories and resources.

**Position 7:** The Convention on Elimination of Discrimination Against Women (CEDAW), Beijing Plan of Action Plus (BPFA+) and Sustainable Development Goals (SDGs) should be properly implemented in accordance with the United Nations Declaration on the rights of Indigenous Peoples (UNDRIP).

**Position 8:** Nepal should meaningfully implement CEDAW recommendations of 14 November 2019 relating to indigenous women, including "41(a) Amend the Constitution to explicitly recognize the rights of indigenous women, in particular their right to self-determination, in line with the

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1. According to articles 14 (1) and 15 of the ILO Convention no. 169, and article 8, 10, 25, 26, 27, 28, 29, 30, 32 and 33 of the UNDRIP.

2. According to article 6 of the ILO Convention no. 169, and article 3, 4 and 5 of UNDRIP Constitution of Nepal article 56(5), and article 99 of Local Government Operation Act 2017.



South Asia Community Exchange Visit in Lhomi Women Group, Kapan

United Nations Declaration on the Rights of Indigenous Peoples”).

**Position 9:** Guarantee indigenous women’s full, inclusive, meaningful and direct participation and representation, as chosen by the affected indigenous women, at all levels and processes relating to planning, decision making, implementation, monitoring and evaluation relating to lands, territories and resources in line with UDRIP and ILO Convention no. 169, in the Constitution, laws, policies, plans and programs related to land rights.<sup>3</sup>

**Position 10:** For the State to respect and protect diversity among women and the legal personality of indigenous women in laws, policies, plans and programs relating to land rights must be recognized by the State.<sup>4</sup>

**Position 11:** The State, non-governmental organizations, private companies and international development partners

3. According to article 14 (2) sub article (g) of the CEDAW, articles 18, 21 and 22 of the UNDRIP, and article 38(1) and 38(6) of the Constitution of Nepal, 2015.

4. CEDAW and article 38(4) and (5) of the constitution of Nepal.

must disseminate information on lands, territories and resources in indigenous languages or in the languages as understood and preferred by indigenous women.<sup>5</sup>

**Position 12:** The State and the Government, non-governmental organizations and international development partners must design and implement, with high priority, policies, plans and programs to recognize and protect the lands, territories and resources, of the highly marginalized, endangered groups of indigenous peoples, and ensuring



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NIWF-Chairperson Chini Maya Majhi delivered Welcome Speech in Asia Regional Meeting.

the protection of land rights and delivery of appropriate services to indigenous women and girls, indigenous persons with disabilities, indigenous LGBTI in line with the UNDRIP and ILO Convention no. 169, CEDAW and ICERD.

**Position 13:** The federal, provincial and local governments, including ministries and departments of Nepal government, non-governmental organizations, private business companies and international development partners must conduct transparent indigenous women budgeting (allocation of budget for indigenous women)

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5. According to articles 14 (1) and 15 of the ILO Convention no. 169





Participants at the end of Land Right Training in Sindhupalchok

and indigenous women auditing (stock taking of how much budget has been allocated for what and who and how has it been implemented) must be carried out in collaboration with indigenous women's organizations.

**Position 14:** All existing and/or draft laws/legislation, policies, rules and regulations, directives etc. should be amended and/or revised and/or passed making it fully in line with the United Nations Declaration on the rights of Indigenous Peoples (UNDRIP), ILO 169 and CEDAW.

**Position 15:** Eviction or displacement or resettlement of indigenous women should not be done at all; but if it should be done exceptionally as a last resort, it should be done by obtaining our Free, Prior and Informed Consent (FPIC) and do resettlement and provide compensation to the victims in line with UNDRIP, ILO Convention no. 169, and CERD General Recommendation no. 23.

**Position 16:** Any study, assessment, and evaluation including feasibility study, Preliminary Impact Assessment (PIA), Environmental Impact Assessment (EIA), Social



Solidarity with Newar Community in Khokana, Lalitpur

Impact Assessment (SIA), Mid-Term Evaluation, and Terminal Evaluation must be done with full and meaningful participation and representation of indigenous women and indigenous women expert and these must be carried out in line with the UNDRIP and ILO Convention No. 169.

**Position 17:** Stop exclusion of and discrimination against indigenous women and indigenous girls in laws, policies, plans, programs and activities on lands, territories and resources, including forests, protected areas, rivers and rivulets, wetlands, mountains and pastures.

**Position 18:** End all forms of violence (structural violence, cultural violence, direct or indirect violence, linguistic violence, religious violence, racial violence, gender based violence, violence based on physical condition etc.) and sexual harassment against indigenous women.

**Position 19:** Individual rights on lands in ancestral lands of indigenous peoples shall be within the collective rights of indigenous peoples and let no one interfere or damage indigenous peoples' collective rights on lands, territories and resources.

**Position 20:** Recognizing the past treaties and agreements done between the government and indigenous peoples, the state should recognize indigenous women's pre-existing rights on lands, territories and resources as integral to the collective rights of indigenous peoples.

**Position 21:** The State should ensure indigenous women's cross-border land use, control and management.

**Position 22:** Participation and representation of indigenous women should ensure in the process of transitional justice systems such as the Commission of Investigation on Enforced Disappeared Persons, and the Truth and Reconciliation Commission, and provide due justice to conflict victim indigenous women and girls.

**Position 23:** The State, private sector, non-governmental organizations, international development partners should work in close partnership with indigenous women, in line with UNDRIP and ILO Convention no. 169, in all climate change related policies, plans and programs.

**Position 24:** All data collected and disseminated by both the State and non-State actors must be disaggregated by ethnicity (indigenous peoples) gender to include indigenous women, girls, indigenous LGBTI, by abilities to include indigenous persons with disability, and by age to include indigenous children, youth and senior citizens.

**Position 25:** We indigenous women and our organizations will not accept fund from State and non-State actors and international development partners who have violated indigenous women's rights, including land rights, and are involve in campaigns or activities against the interest, unity and cooperation of indigenous peoples and indigenous women.



World Indigenous day celebration

**Position 26:** We indigenous women, our representative organizations and our movements are for the recognition of our indigenous identities, cosmovision, pluri-nationalism, and customary democratic self-government systems, and we are, and we shall remain against Brahmanism (Bahunbad), all forms of colonialism, racism, casteism, patriarchy, genderism, assimilation or melting pot and all forms of discrimination.

**Position 27:** We indigenous women are against occupation of our lands, territories and resources through all forms of development aggressions, and use of theories of Terra Nulius, Regalian doctrine, and eminent domain.

**Position 28:** In case of systematic violation of our human rights, including genocide of indigenous peoples, indigenous women and girls, we indigenous women have right to rebel to defend against it.

**Position 29:** We indigenous women are, and shall be for human rights and social justice for all, and we will always work, and continue to work for its achievement.