COVID-19 PANDEMIC AND SEXUAL VIOLENCE AGAINST INDIGENOUS WOMEN AND ACCESS TO JUSTICE

Asia Indigenous Peoples Pact (AIPP)
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Acknowledgements

Violence Against Women (VAW) is an urgent issue of concern of public health, human rights, economic and public policy yet to be addressed. Indigenous women (IW) face multiple forms of discrimination and violence as being Indigenous Person and women. It is often assumed that the nature of violence is similar among the non-indigenous women and indigenous women but the experiences of indigenous women in Asia show that the violence against Indigenous Women and girls often occurs in specific forms and circumstances. Violence against Indigenous Women (VAIW) is not limited to gender-based discrimination within Indigenous and non-Indigenous sphere; but also contributed by ongoing colonization and militarism; racism and social exclusion; and poverty-inducing economic and development policies. Violence is enacted upon the collective, cultural, social and economic rights of Indigenous Peoples; such violence has specific and critical impacts on Indigenous women and girls.

This report encompasses the realities of violence that Indigenous Women in Bangladesh and Nepal are facing. It reflects on denial of access to justice by the State, which is a serious concern. There could be many incidences which were silenced and buried down. It has highlighted how indigenous women and girls have become prey of violence amidst COVID-19. There is lack of disaggregated data collection at national level, which has to be prioritized by each state. All the State must comply Convention on the Elimination of Discrimination against Women (CEDAW) to end the violence against women and girls in Asia.

I would like to extend my gratitude to the research team involved in this study, who have amplified this serious issue which needs immediate attention from state, human right bodies, civil groups and UN mechanisms. This work will serve as an advocacy tool for our indigenous women leaders and activists to eliminate violence and discrimination against Indigenous women in Asia. Lastly, I would like to thank FIMI for their support to strengthen Indigenous women’s leadership by generating evidence like that of this study report.

In Solidarity,
Gam A. Shimray
General Secretary
Asia Indigenous Peoples Pact (AIPP)
Introduction
Introduction

Asia Indigenous Peoples Pact (AIPP) has stated in its submission report to the UN Human Rights UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) that an estimated 50% of up to 200 million Indigenous Peoples living in Asia are Indigenous women. These women have faced multiple forms of discrimination and are denied their human rights whenever the rights of Indigenous Peoples are violated by the State in different circumstances. One such violations of human rights related to Indigenous women is the attacks on their bodily integrity. The State, in its attempt to suppress the Indigenous movement, has always resorted to physically assaulting Indigenous women, and then deny them to judicial remedy against such a heinous crime.

To understand the status of such situation against Indigenous women in South Asian context, we should be mindful of the fact that six, i.e., Afghanistan, India, Nepal, Maldives, Pakistan and Sri Lanka, out of eight South Asian countries voted in favor of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Yet, acceptance and acknowledgement of 'Indigenous' definition and political willingness to respect, promote and fulfill the spirit of UNDRIP in each of these countries is contentious. Two other countries, Bangladesh and Bhutan, abstained from voting, and while Bangladesh has questionable records on its treatment of Indigenous Peoples in Bangladesh, the situation in Bhutan is left to be explored full extent. This backdrop, AIPP has undertaken this desk review on the pretext that Indigenous women in South Asia who have been subjected to sexual violence, and/or sexual abuse have less access to justice. This review will investigate two South Asian countries – Bangladesh and Nepal. These two countries have been chosen due to interest and engagement of AIPP’s members NGOs of these countries. It should be duly noted that while Nepal voted for the UNDRIP, Bangladesh has abstained.

The onset of COVID-19 pandemic since December 2019 compelled countries across the world to impose country-wide lockdowns including sealing of borders in their respective territories. This created a forced enclosed living space for people to live their daily lives in proximity with each other. These enclosed living spaces considered of being safe proved otherwise. The UN Women press release dated 27 May 2020 stated that Pandemics like COVID-19 can exacerbate not only violence within the home but other forms of violence against women and girls.

Both Bangladesh and Nepal imposed two country-wide lockdowns in their countries in the time frame of March 2020 to August 2021. Both countries ran hotlines for women to report incidences of violence against them. These numbers were managed by the Bangladesh Women’s Council and the National Women Commission respectively in Bangladesh and Nepal. Indigenous networks and organizations advocating for the rights of Indigenous women in these countries were actively monitoring whether the COVID-19 lockdown was harming the bodily integrity of Indigenous women, and in the event of such harm inflicted on them, how accessible are these services to the Indigenous women if they sought legal remedies.

Objectives

The objective of this desk review is to assess information on whether Indigenous Women were also subjected to sexual violence during COVID-19 as in other times. When harmed, was the situation induced by COVID-19 creating an additional barrier for Indigenous women to access justice against this harm inflicted on them? Additionally, this review also explored the following:

1. the underlying causes of sexual violence inflicted on Indigenous women,
2. Indigenous communities’ responses to such incidences,
3. accountability of State mechanisms, particularly of law and enforcement bodies,
4. media attentiveness to such incidences involving Indigenous women,
5. the role and capacity of Indigenous rights movement and rights organizations.

Hypothesis


Methodology

This is primarily a desk review of the incident reports and documentation of the Indigenous organizations working for the rights of access to justice of Indigenous women subjected to sexual violence. It has also looked into investigating the media reports of such incidents as documented by the Indigenous organizations.

Following the desk review of the incidence reports, key informant meetings have been conducted with the partner organizations when deemed necessary. These meetings were held in Nepal in full compliance with COVID-19 related safety measures. Virtual meetings were held with Bangladesh Indigenous Women Network (BIWN) members.

In July 2021, one preparatory meeting with AIPP was conducted. Two interactive meetings with members from Bangladesh and Nepal were held on the objective and scope of the desk review and focal points of each of the member of AIPP were introduced.

In October 2021, a preliminary review of information provided to the reviewers by member NGOs on the status of Indigenous women was completed. This covers the last 5-8 years prior to COVID-19 lockdown beginning in March 2020. For Bangladesh, it has been from 2014 to 2019 and for Nepal from 2012 to 2019.

In November 2021, follow-up meetings with the partner NGOs were held. These meetings also clarified partners' queries related to the sharing of the incident reports by them with the reviewers. These queries were also related to the nature and status of the incidents that have been reported along with measures for confidentiality.

Limitation of the Desk Review

This desk review was limited to information provided by the partner organizations, Bangladesh Indigenous women's Network (BIWN) and National Indigenous Women's Federation (NIWF), of Bangladesh and Nepal respectively. Documentation by the partner organizations of such incidences of sexual violence committed against Indigenous Women were studied to understand the nature of sexual violence, legal remedies sought against these incidents, the nature of media attention it has received, and the support received from allies across Indigenous Peoples’ rights networks and organizations to prevail justice for indigenous women subjected to such violence of sexual nature. Press statements and reports by these partner organizations were also reviewed with an understanding that indigenous women are vulnerable targets of the State in its suppression of Indigenous Peoples’ rights movements to claim their access of ancestral territories, assertion of their identities in political and cultural sphere, and demand legal remedies to address any criminal or state mobilized atrocities against their population. Additionally, flash reports and fact sheets published by Asia Indigenous Peoples Pact (AIPP) and International Work Group for Indigenous Affairs (IWGIA) in their respective websites and reports submitted to UN-Human Rights were also studied.

This review process also reflected on how Indigenous Peoples’ rights organizations themselves are documenting the information on violation of indigenous women's rights and their determination to seek legal remedy through State’s judicial mechanisms. Since these organizations are activism-based movement building networks, there are many technicalities related to the dedicated documentation of these cases. The reviewers, therefore, had to comprehend with the help of representatives of NIWF and BIWN documenters themselves to be able to incorporate them in the report.
Bangladesh Chapter
Introduction

The 2011 census report of Bangladesh estimated a total population of 144,043,697 with an Indigenous population of 1586141 which is 1.8% of total country population. This, however, has been refuted by the Indigenous population who claim their population of being over 5 million. Bangladesh has over 54 Indigenous ethnic groups whose human rights as stipulated in the international human rights instruments, particularly in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) are yet to be protected, promoted and fulfilled by the Government of Bangladesh. As mentioned above, it must be noted that Bangladesh had abstained from the voting session of UNDRIP and to this day has not adopted it. This has, till date, resulted in not only its Indigenous population unacknowledged but also ignoring their rights to quality of life as ascribed across human rights instruments protecting and promoting collective and individual rights of Indigenous Peoples both as an individual and a member of their Indigenous groups. Some of the significant human rights issues of Indigenous Peoples in Bangladesh are: access to their ancestral land and territories, political representation and participation in all levels of state mechanisms, criminalization of Indigenous Peoples’ rights activists and arbitrary methods adopted by the State to silence them, violence against Indigenous populations including sexual violence against Indigenous women and girls, economic and social representation of Indigenous Peoples.

With the onset of COVID-19 pandemic across the world, Bangladesh imposed its first country-wide lockdown from 23 March to 30 May 2020. Similarly, second wave of COVID-19 prompted the second lockdown in the country from 1 July to 5 August 2021. Documentation of the cases related to Indigenous women in Bangladesh seeking legal remedies against sexual violence inflicted on them during these two lockdowns have been reviewed.

Status of Indigenous women in Bangladesh

Bangladesh Indigenous women Network (BIWN) states that Indigenous women and girls are one of the most disadvantaged and vulnerable sections of the country’s population. They stand deprived of basic human rights, such as lack of access to education at all levels and forms, health care, economic and political participation, and control over material and intangible resources. Indigenous women in Bangladesh often face triple discrimination due to their status as members of religious minority,

indigeneity and their gendered position. They experience discrimination not only from the surrounding society but often also from within their own respective communities. They are also subjected to different forms of sexual, physical and psychological violence the root of which can be traced to Indigenous women’s social position, state’s domination through different actors and masculine structures in place to control women, communal aggression over the Indigenous Peoples’ ancestral lands, militarization, and negative social attitudes on women and so on.

Findings of Desk Review

The available documentation of incidences of sexual violence against Indigenous women in Bangladesh were provided by Bangladesh Indigenous Women’s Network (BIWN). Thereby, findings determined are as follows:

a) Rape is the Most Prevalent Form of Sexual Violence

Bangladesh has a long-standing history of State inflicting violence on Indigenous Peoples, Indigenous women and girls in the country. Given the socio-economic status of Indigenous women as stated above, and State’s denial of ‘indigeneity’ of the Indigenous communities in the country, Indigenous women in Bangladesh irrespective of Indigenous group they belong to, are vulnerable to sexual violence against them. Table 1 reflects a 15-year documented time frame of Indigenous women and girls who were subjected to sexual violence in Bangladesh.

Table 1: Types of Sexual Violence Committed Against Indigenous women and Girl Victims/Survivors of Violence in Bangladesh (2007-2021)

<table>
<thead>
<tr>
<th>Year</th>
<th>Rape/ Gang Rape</th>
<th>Killed/Killed after Rape</th>
<th>Physical Assault</th>
<th>Attempt to Rape</th>
<th>Abduction/Kidnap</th>
<th>Sexual Harassment/Molested</th>
<th>Trafficking</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>5</td>
<td>-</td>
<td>-</td>
<td>3</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>9</td>
</tr>
<tr>
<td>2008</td>
<td>3</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>4</td>
</tr>
<tr>
<td>2009</td>
<td>2</td>
<td>4</td>
<td>6</td>
<td>3</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>16</td>
</tr>
<tr>
<td>2010</td>
<td>7</td>
<td>7</td>
<td>5</td>
<td>6</td>
<td>5</td>
<td>2</td>
<td>-</td>
<td>25</td>
</tr>
<tr>
<td>2011</td>
<td>11</td>
<td>7</td>
<td>-</td>
<td>8</td>
<td>5</td>
<td>-</td>
<td>-</td>
<td>31</td>
</tr>
<tr>
<td>2012</td>
<td>17</td>
<td>17</td>
<td>36</td>
<td>13</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>85</td>
</tr>
<tr>
<td>2013</td>
<td>15</td>
<td>3</td>
<td>16</td>
<td>9</td>
<td>5</td>
<td>10</td>
<td>8</td>
<td>07</td>
</tr>
<tr>
<td>2014</td>
<td>21</td>
<td>7</td>
<td>58</td>
<td>22</td>
<td>10</td>
<td>4</td>
<td>0</td>
<td>122</td>
</tr>
<tr>
<td>2015</td>
<td>29</td>
<td>23</td>
<td>21</td>
<td>17</td>
<td>5</td>
<td>9</td>
<td>2</td>
<td>85</td>
</tr>
<tr>
<td>2016</td>
<td>26</td>
<td>6</td>
<td>5</td>
<td>9</td>
<td>6</td>
<td>2</td>
<td>0</td>
<td>53</td>
</tr>
<tr>
<td>2017</td>
<td>10</td>
<td>9</td>
<td>4</td>
<td>10</td>
<td>6</td>
<td>2</td>
<td>0</td>
<td>49</td>
</tr>
<tr>
<td>2018</td>
<td>23</td>
<td>12</td>
<td>5</td>
<td>11</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>54</td>
</tr>
<tr>
<td>2019</td>
<td>10</td>
<td>5</td>
<td>6</td>
<td>7</td>
<td>1</td>
<td>4</td>
<td>-</td>
<td>33</td>
</tr>
<tr>
<td>2020</td>
<td>20</td>
<td>2</td>
<td>16</td>
<td>16</td>
<td>6</td>
<td>2</td>
<td>0</td>
<td>62</td>
</tr>
<tr>
<td>2021</td>
<td>22</td>
<td>4</td>
<td>2</td>
<td>12</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>43</td>
</tr>
<tr>
<td>Total</td>
<td>226</td>
<td>86</td>
<td>101</td>
<td>145</td>
<td>52</td>
<td>37</td>
<td>11</td>
<td>738</td>
</tr>
</tbody>
</table>

Source: BIWN 2022

A total number of 738 cases of violence against Indigenous women and girls have been documented in the last 15 years. It is indicative that rape of Indigenous women is most prevalent, followed by physical assault (181), attempt to rape (145 cases), abduction (52) and sexual harassment (37). However, abduction cases of Indigenous women totaling 52 do not indicate whether these Indigenous women were abducted to inflict sexual harm on them. Rape cases are found to have not only increased but doubled in 2020 than the before starting of COVID-19 pandemic. Rape cases are 22 out of 42 documented cases, attempt to rape is 12, and sexual harassment case is 1. Additionally, 4 Indigenous women have been raped and killed in 2021.

b) Region-wise Vulnerability of Indigenous women

Documentation details of 42 cases of sexual violence against Indigenous women in Bangladesh committed in 2021 show that Indigenous women from the Chittagong Hill Tracts (CHT) are more vulnerable than those in the plain land. Because of the historical background of the CHT is different than other parts of the country. The CHT is ruled by the security agency. Most of the communal attacks are happen in CHT. In the CHT area, most of the rape and abduction committed by military agency and security forces.

<table>
<thead>
<tr>
<th>Types of Violence</th>
<th>Number of Incidents</th>
<th>Geographical Location</th>
<th>Number of Victims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gang rape</td>
<td>7</td>
<td>CHT</td>
<td>7</td>
</tr>
<tr>
<td>Rape</td>
<td>34</td>
<td>Plain Land</td>
<td>35</td>
</tr>
<tr>
<td>Attempted Rape</td>
<td>28</td>
<td></td>
<td>28</td>
</tr>
<tr>
<td>Attempted Killing/Killing</td>
<td>6</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Sexual Harassment</td>
<td>3</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>85</td>
<td></td>
<td>86</td>
</tr>
</tbody>
</table>

Source: BIWN 2022

Out of 35 rape cases since the pandemic started from 2020 to 2021, at least 18 of them were committed in the Chittagong Hill Tracts (CHT) and the remaining 17 cases were from plains. It is to be noted that gang rape rate and killing/killing after rape rate are higher for Indigenous women from the CHT. However, attempts to rape on Indigenous women from the CHT (14) are equal to that of the plain land (14). Women from the plain land have more chance of being abducted and sexually harassed. Since the pandemic started to till 2021, the Bangladesh Indigenous Peoples’ organizations have recorded cases of all that nature as mentioned in the table above.

c) Age Group

The review determined that both Indigenous women and girls are vulnerable to sexual violence.

<table>
<thead>
<tr>
<th>Age Group</th>
<th>01-16</th>
<th>11-20</th>
<th>21-30</th>
<th>30+</th>
<th>Age not mentioned</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gang rape</td>
<td>6</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>7</td>
</tr>
<tr>
<td>Rape</td>
<td>1</td>
<td>15</td>
<td>3</td>
<td>2</td>
<td>14</td>
<td>35</td>
</tr>
<tr>
<td>Killing/Killing</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Sexual Harassment</td>
<td>1</td>
<td>1</td>
<td></td>
<td>2</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Abduction/Kidnapping</td>
<td>5</td>
<td></td>
<td>2</td>
<td>7</td>
<td></td>
<td>12</td>
</tr>
<tr>
<td>Attempted Rape</td>
<td>2</td>
<td>10</td>
<td>4</td>
<td>1</td>
<td>11</td>
<td>28</td>
</tr>
<tr>
<td>Total</td>
<td>4</td>
<td>38</td>
<td>11</td>
<td>4</td>
<td>29</td>
<td>86</td>
</tr>
</tbody>
</table>

Source: BIWN 2022

Indigenous girls as young as the ones from 1-10-year-old age group and as old as 30+ years are subjected to sexual harm. The reason behind non-disclosure of age among 29 of the cases. The 11-20 age group has the highest number of attempts to rape, murdered after rape, and rape by an individual and gang rape.

d) Access to Justice

Section 9 (1) of the Prevention of Violence Against Women and Children Act, 2000 states that rape is punishable by death, and that the maximum punishment for rape is life imprisonment in Bangladesh. In October 2020, the Bangladesh government approved a bill stating that anyone convicted of rape would face either lifetime imprisonment or death penalty, yet, the number of rape cases against Indigenous women have doubled in 2020 when compared with the number of cases in 2019 which is shown in Table 1.

Table 3: Age Group of Indigenous women and girls Sexually Violated in Bangladesh (2020-2021)

Table 4: Status of Cases Filed Against Sexual Violence in Bangladesh (2020-2021)

From the start of the pandemic to 2021, out of 86 cases of sexual violence, only 55 cases have sought legal remedies. It is to be noted that there is a record highest number of cases filed against incidence of rape. A total of 20 out of 35 rape incidences have sought legal remedies while 15 of the cases have not. Most of the cases occurred in remote area so, due to lack of awareness, complex court procedure, inadequate legal aid, financial problem, political pressure, lack of follow-up VAIW cases, and over-reliance of government to run victims/victim families’ cases on their behalf are the main causes of violence against indigenous women and girls in the country. In the case of gang rape, 6 incidents have sought out legal remedies while only 1 has not done country. In arrest of perpetrators is all in gang rape incidences and 12 in rape cases where the perpetrator was a single individual. Attempt to rape case has the lowest number of cases filed and only 3 perpetrators were arrested. Among the abduction and kidnapping incidents, 6 cases have been filed, 1 has not and only 1 kidnapper has been arrested. Incidences reported for murder after the rape and sexual harassment have made no arrests.

g) Murder after Rape

Six of the rape victims were killed after their rape. There was a case of killing of a 4-year-old minor after rape. Two cases were not filed because perpetrators were not identified. Four cases were filed.

h) Abduction/Kidnapping

The review determined that out of the 7 abduction cases, 5 were of Indigenous women under the age group of 11 to 20 and 2 the age of whom were undisclosed. From the case studies provided it was established that Indigenous girls are being trafficked for sexual exploitation either through lure of love and marriage or forceful marriage to their abductors. All of the six abductions cases were filed in the police office with neither the investigation nor any arrests made of the alleged perpetrators.

e) Support to the Rape Survivors

Rape has been identified as one of the most severe and prevalent violations of human rights committed against Indigenous women and girls of Bangladesh in the pandemic period. Out of 35 rape cases against Indigenous women, 18 cases were minor age group, and 16 of them were supported by the victims ‘community and families to seek legal remedies. Five such cases received help from local Indigenous Peoples’ rights activists. There were 2 rape cases against a woman with disabilities (intellectually challenged), 3 cases against physically challenged and 2 cases against single women (widows). All these 7 women received community support. The majority of the accused/perpetrators were from the mainstream population. Out of the 7 gang rape cases, 6 cases got reported in the media, including the government-banned media. The majority of the accused/perpetrators were also from mainstream population.

f) Attempt to Rape

Of the 28 attempts of rape cases against Indigenous women and girls, 18 cases were filed out of which one perpetrator was fined and released after the arrest. There were 17 attempts of rape against minor age group, 11 cases against adult women, 1 against minor age group girl with disabilities, and one case where age is undisclosed. The majority of the accused/perpetrators were from the mainstream population, i.e., Bengali origin.
Nepal Chapter
Introduction

Central Bureau of Statistics (CBS) 2011 recorded the total population of Nepal is 26,494,504 including the diverse Indigenous population totaling 9,485,032, out of which 4,946,524 are Indigenous women. Indigenous Women across Nepal has voted in favor of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The Government of Nepal has established Indigenous Nationalities Commission (INC) in 2018, and the National Foundation for Development of Indigenous Nationalities (NFDIN) in 2001. Yet, Indigenous nationalities in Nepal have long-standing issues to be addressed by the State in terms of political representation at all state levels, realization of socio-cultural-economic rights mostly on the right to access ancestral land and territories, conservation of Indigenous heritage sites, and non-discrimination. Within this context, Indigenous women in Nepal have been at the forefront of Indigenous rights movements in Nepal. Yet, Indigenous women of Nepal face discrimination based on their Indigenous identity resulting in denial and/or limited opportunities in education, lack of access to health services and economic activities, and sexual exploitation. Nepal Demographic and Health Survey 2016 mentions that 7 percent of women and girls aged 15-49 across the country have reported facing sexual violence in their lifetime. However, there is no segregated official data based on the Indigenous identity of these women and girls.

In fact, Indigenous women are subjected to multiple forms of discrimination that are based on their origin, language, cultural practices, and negative portrayal of their individual rights within the respective Indigenous nationality they belong to. The underlying causes of gender and racial discrimination against Indigenous women and girls, denial of opportunities to represent and participate in their rights in the political and social sphere, stigmatized portrayal of their autonomous bodily rights including mobility and access to resources are as follows:

1. patriarchal State and its policies implemented to either curb, violate or negate the rights of Indigenous Peoples, and
2. patriarchal mindset of Indigenous men towards Indigenous women.

These causes have resulted in the denial of education in their mother tongue, opportunities for their growth in both professional and personal spheres, and sexual exploitation in both personal and professional engagement.

Findings of Desk Review

The desk review conducted to determine the nature of sexual violence inflicted on Nepali Indigenous women, and their access to justice are based on documentation of Asia Indigenous Peoples Pact’s member organizations in Nepal, mainly by the National Federation of Indigenous Nationalities (NEFIN), and the National Indigenous women’s Federation (NIWF).

Availed data from NIWF on incidences of sexual violence against Indigenous women in Nepal shows that a total number of 49 cases of sexual violence against Indigenous women taking place from March 2020 to December 2021 have been documented. It is indicative that physical assault against Indigenous women (13 cases) is most prevalent, followed by murder after rape (8 cases), sexual harassment (8 cases) and rape (7 cases). Sindhupalchok district is the most unsafe place for Indigenous women, 5 rape cases, murder after rape 3 cases, physical assault 12 cases, and trafficking 5 cases took place. It holds the highest number of rape incidences, killing after rape, and trafficking cases reported during this period. Kathmandu district closely follows Sindhupalchok district for the number of sexual violence of Indigenous women are 5 cases, rape 1 case and killing after rape is 1 case. Abduction/Kidnapping of Indigenous women is high in Kalikot district. Which is represented in following Table 5.

Status of Indigenous women in Nepal

Nepal’s female population as of Central Bureau of Statistics 2011 is 51.5% out of which Indigenous women are 18.67%. These Indigenous women belong to but are not limited to 59 officially acknowledged Indigenous nationalities in Nepal. Despite strong advocacy for both the collective and individual rights of Indigenous women in the country by the Indigenous rights movement, the status of Indigenous women in Nepal is no better than that of any other women in the country.
Both Bangladesh and Nepal have a diverse population of Indigenous nationalities. While Bangladesh has not adopted UN Declaration on the Rights of Indigenous Peoples (UNDRIIP), Nepal has adopted but not implemented the spirit of UNDRIP. Both countries have vibrant Indigenous Peoples’ rights activists and organizations continuously advocating for the prevalence of Indigenous Peoples’ collective and Indigenous rights. Yet, Indigenous Peoples in these countries, especially bodies of Indigenous women and young girls have been turned into a war zone by the State, and the commodity of non-Indigenous population is dominant in the mainstream socio-political and economic arena. Indigenous women are the front liners in both countries in demanding for the fulfillment of their rights, whilst State has taken gender aspect of oppression against them. Therefore, the intersectional identities of Indigenous women, i.e., woman, indigenous, and activist, increase their vulnerability in comparison to that of non-Indigenous women who are as actively taking part in the Indigenous rights movements. This section will present these vulnerabilities playing against Indigenous women living in both Bangladesh and Nepal. These are based on desk reviews followed by interviews with partners of both Nepal and Bangladesh.

Information based on desk review showed that Indigenous women in Nepal do seek legal remedy against sexual violence inflicted on them. Table 6 is an indication of the number of cases filed and outcomes of the Indigenous women’s attempt to access justice against violation of their right to live with dignity, right to be protected against torture and violence, and right of equality before the law as ascribed in Nepal’s constitution, and Universal Declaration on Human Rights (UDHR).

### Comparative Analysis of the Findings

#### a) Front Liners in Indigenous Rights Movement

Indigenous women in both Bangladesh and Nepal have been at the forefront of the Indigenous Peoples’ rights movement. They have been instrumental in street protests and movement mobilizations. Because of their gender and the ‘defile their honor’ sadistic psychology of the State, Indigenous women become easy targets for manhandling, arbitrary arrests, rape, killing and disappearance. One of the issues advocated by the movement calls for the right to self-determination in terms of access and use of ancestral lands and territories which have been turned into national parks or destroyed to extend roads or develop physical infrastructure in the country.

Additionally, daily lives of Indigenous women involve continued use of forest, water and land despite of the fact that State is controlling and curtailing their access. This relentless attempt of continued the use of their natural habitats has been seen by the State officials as defiance and resort to use of force of all kinds to punish them. One of such ‘punishments’ is rape, attempt to rape,
harassment and beating of Indigenous women who come to collect fodder, fuel, cut grass, or graze animals in the forests. Hence, Indigenous women who are actively engaged in advocating against this forceful occupation of their territories and eviction or denial of access to these territories are targeted by the State. Often, the park officials and security personnel involved in managing these territories are found to be inflicting sexual violence against these Indigenous women activists as well as the ones who are living nearby these territories.

b) Vulnerable to Sexual Exploitation

Indigenous women in Bangladesh and Nepal are subjected to sexual exploitation from both non-Indigenous and Indigenous men. Indigenous women especially of the marginalized Indigenous nationalities have poor or no access to education. They are illiterate and have a simple outlook to life which is then exploited by men of both community and non-Indigenous men. They are deceived into sexual relationship with promise of marriage and better life which will stigmatize and alienate them further. Similarly, they have limited, or no understanding of sexual violence being inflicted on them through treachery, other than general understanding of how rape has been defined.

Due to poor financial conditions, young Indigenous girls, especially from the marginalized Indigenous nationalities start working as child labor in private households and enterprises where they are once again vulnerable to sexual abuse, harassment, and rape. This also has reportedly increased the risk of Indigenous women and girls being internationally trafficked citing employment opportunities.

c) Vulnerable to Economic Exploitation

There is an unaccounted number of Indigenous young girls, adolescent girls and women working as domestic household help, menial labors in private enterprises, and construction sites. These young girls and women are paid less wage or no wage at all. Yet, due to their either young age or illiteracy, or being internal migrant labor in the country, they are vulnerable to economic exploitation. These conditions, sometimes, lead to alleged suicide, charges of thieving, and again becoming an easy target for sexual exploitation. In the event of such situation, families and activists have been found to have failed to access justice, especially in ‘suicide’ deaths, and cases of sexual exploitation.

d) Denial of Access to Justice

When Indigenous women, after understanding extent of sexual violence inflicted on them, seek legal remedies against this exploitation or violence, challenges of various degrees surface. To begin with, support from the family and community is absent, if the culture of silence against one’s honor is prioritized.

Hence, some of the commonalities of the reviewers’ findings on the status of Indigenous women in both of these countries in terms of sexual violence inflicted against them are discussed in this section and are categorized as follows:

i) Indigenous community’s acknowledgement of sexual violence inflicted on their women and girls found to be the same. Both Bangladeshi, as well as Nepali Indigenous nationalities, have patriarchal understanding that sexual violence has been used as a weapon against the women and they lack empathy to support those who have undergone it to seek legal remedies against the perpetrators. In case of the perpetrator being an insider – one of their own – customary law seems to prevail against the domestic law of their respective country. Whether customary law or governing domestic law, justice for women and young girls is faced with challenges of delay, non-acknowledgement, or verdict against them. A culture of silence around incidences of sexual violence is also prevalent in Indigenous communities, especially if the perpetrator is non-Indigenous. In such cases, very few Indigenous women and girls get support to stand against this atrocity; the majority of them are silenced not to bring ‘dishonor’ or ‘shame’.

ii) Accountability of State mechanisms, particularly related policies and laws and enforcing/responsible agencies turning bodies of Indigenous women and young girls into warzones is non-existent. Governments of both countries resort to use of excessive force through security personnel in their countries to terrorize Indigenous rights movement. Bangladesh has a history of mobilizing army to suppress Indigenous Peoples living across different terrains of Bangladesh. Nepal Army has notorious track record of using excessive force to deny Indigenous Peoples’ access to national parks which are actually their pasture lands. In both of these countries, violating bodies of Indigenous women and young girls has been used as a medium to deliver warning to their families and community instead of providing appropriate mechanisms or supporting them for justice to the victims.
iii) Media coverage of sexual violence inflicted on Indigenous women and young girls are increasing compared to the past. This could be due to the rise of independent internet news portals and continuous lobbying of Indigenous Peoples’ rights activists. Additionally, the presence of Indigenous media outlets has also increased this visibility which in turn acts as an activism tool advocating for justice against the cases of sexual violence.

iv) Indigenous Peoples’ rights organizations regard sexual violence against Indigenous women and young girls as serious offense in both countries. They are clear about their role, despite their limitations in terms of capacity and access to available resources to facilitate passage to justice. Indigenous Peoples’ rights organizations in both countries, however, need to establish efficient and comprehensive documentation of such cases in standard human rights frameworks/instruments to present a coherent evidential scenario of the issue.
Recommendations
Upon the completion of review of the documents, the following recommendations have been made to media, states bodies, Indigenous Peoples’ rights organizations, and the human rights community.

**Recommendations for Indigenous Peoples’ Rights Organizations:**

During the review, some of the representatives of the Indigenous Peoples’ rights organizations were found to be confused over what constitutes sexual violence. Therefore, Indigenous Peoples’ rights organizations need to continuously update their knowledge on various aspects of sexual violence, the policies, laws and instruments that can protect and support them to fight for their rights and the justice mechanisms and orient their communities accordingly.

Indigenous Peoples’ rights organizations must enhance their present documentation skills. Available data and incident reports need to be documented in an efficient and comprehensive manner efficiently and comprehensively. They should also disaggregate available homogeneous data developed by the State and non-Indigenous organizations. It’s also important for them to understand and analyze the data on violence and use them for evidence-based advocacy and lobbying in different mechanisms as appropriate at the local, national and global levels. The IPOs should have their capacity and skills and also the communities.

Indigenous Peoples’ rights organizations should coordinate with each other and develop a consolidated strategic plan to further the issues within and outside the Indigenous rights movements. Networking and solidarity building with other IPOs, Indigenous lawyers and non-indigenous lawyers supporting Indigenous issues would be supportive to amplify the issues and seek justice mechanisms.

Indigenous Peoples’ rights organizations in Bangladesh should lobby the State to adopt the Undreamt the same time, the IPOs in Nepal should lobby for effective mechanisms and programs for the implementation of UNDRIP and ILO 169 through existing or new governing bodies.

**Recommendations for Indigenous Peoples’ Rights Organizations:**

Increasingly media has been playing a positive role in highlighting incidences of sexual violence against Indigenous women. It is recommended that it should do in-depth analytical investigative pieces to problematize the issue which can be a strong evidential advocacy tool.
References


