

Customary Self-Government Systems of the TAMHANG (THAKALI) NATION

THE TAMHANG (THAKALI) are one of the 59 Indigenous Peoples formally recognized by the government of Nepal. Their ancestral land, Thasang, is in the trans-Himalayan region of Nepal.

Although Tamhang have been practicing their customary self-government system since time immemorial, the past and present ongoing processes of colonization, Hinduization and globalization have gradually been weakening it.

Even though traditional ownership of and control over their ancestral lands, territories and resources have been lost, their collective way of life, and customary self-government system are still functioning well.

What has been lost? What is still functioning? What remains? What is so distinct about the Tamhang? This book tries to answer these questions.

THIS VOLUME is part of a series published by AIPP for a course on 'Realizing Indigenous Peoples' Autonomy and Self-government'. The programme seeks to help Indigenous Peoples critically reflect on the state-of-affairs regarding self-determination and self-government among their own peoples; to help them comprehend the extent of damage or destruction of their customary self-governance systems; to take stock of what is left; and to explore options to regain, revitalize and reconstruct self-government among their communities and peoples.

KRISHNA B. BHATTACHAN is a retired faculty member and former Head of the Department of Sociology and Anthropology at Tribhuvan University in Kathmandu, Nepal. He is currently an advisor and indigenous expert at the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP).



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AIPP

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KRISHNA B. BHATTACHAN

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aippmail@aippnet.org • www.aippnet.org

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Author
Krishna B. Bhattachan

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Christian Erni

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Message from
GAM A. SHIMRAY
Secretary-General
AIPP

This series on “Indigenous Peoples’ Self-Governance and Democracy” is inspired by the collective vision of AIPP to reclaim indigenous sovereignty.

Indigenous governance systems were perhaps the only form of democratic governance systems in Asia before colonization. These were different from the liberal form of democracy. They were, in fact, highly functional governance systems due to the complementary nature of the community – which were based on principles of equity, equality, reciprocity, and reconciliation.

Indigenous governance systems were a reality and were of the most rooted kind because they were organic in conception and practice. It represents systems that emerged from layers of our civilization, founded on the spirituality and values of the society, to give harmony to our social, economic, and political problems.

However, indigenous governance systems are waning because indigenous children are forced into schools where none of our languages, knowledge and values are taught. And we are all forced to live under governments where our own forms of leadership and decision-making are not recognized. We continue to experience prejudices and discrimination, forced occupation of our territories, dispossession, and disempowerment. In other words, the more the state grows, the more our societies shrink.

While this series was conceived as a resource material for the course on “Indigenous Peoples’ Self-Government and Democracy,” its main objective is to catalyze the uncovering and recovery process of indigenous values and governance systems. Hopefully, it will bring more clarity and meaning to them as we

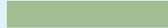
adapt to the changing context to find meaningful ways of co-existence in the encapsulated state system.

I believe that as we build our capacity to re-build our communities and negotiate with the state and society for creating our genuine political space, the richness of indigenous governance systems will also offer new insights for addressing both the institutional and cultural disharmony of the democratically challenged Asian states.

Therefore, both the publication series and the course are part of the initiative of AIPP to reclaim the Right of Self-Determination of Indigenous Peoples, and for creating a genuine democratic and pluralistic society where our unique way of life and systems of governance are thriving.

Chiangmai, Thailand

November 2022



Message from

CHRISTIAN ERNI

Course Convenor

AIPP Indigenous Self-Governance
and Democracy Project

Part of AIPP’s current Strategic Plan is to bring the issue of the Right to Self-Determination back higher on its agenda, with the explicit goal to help revive Indigenous Peoples’ customary institutions and re-build their organic governance systems. In order to help pursue this goal, the project “Indigenous Peoples’ Self-governance and Democracy” was initiated in 2018.

A core element of this project is a course on “Realizing Indigenous Peoples’ Autonomy and Self-government,” which was developed jointly by a group of indigenous leaders and experts, supported by non-indigenous allies.

The course seeks to help indigenous civil society leaders, indigenous leaders and intellectuals to critically reflect on the state-of-affairs regarding self-determination and self-government among their own peoples; to help them comprehend the extent and depth of change, damage or destruction of their customary self-governance systems; to take stock of what is left, above all in terms of values that were guiding the way they used to govern themselves; and to explore options to regain, revitalize and reconstruct self-government among their communities and peoples.

The course has been conceived as a learning cycle of self-reflection, studying new ideas and critical discussions. The case study series on self-government among Indigenous Peoples hopes to provide course participants as well as other readers an additional source of information, inspiration and encouragement.

Ukhrul, Manipur

November, 2022



AUTHOR PREFACE

& Acknowledgements

The present generation of Indigenous Peoples of Nepal, as elsewhere in the world, are facing serious problems in transferring collective ways of life that was handed down by our ancestors to future generations. State, market economy as well as international and local non-governmental organizations have not only colonized Indigenous Peoples, but shrinking democratic and civic space in general has also resulted in ethnocide of Indigenous Peoples.

In Nepal, the Kusunda are almost extinct and some other Indigenous Peoples, including the Raute and Bankaria, are on the verge of extinction. Most of the 59 Indigenous Peoples of Nepal formally recognized by the State are facing ethnocide, but some of them, especially the TaMhang (Thakali), Tharu, and Newar still function well, except that lands, territories and resources have been grabbed by the State. Among others, such as the Dhimal, Santhal, Urau, Kisan, Tajpuria, Magar, Rai, Sherpa, Tamu, Tamang and Sunuwar, customary self-governing institutions are functioning partially. And some Indigenous Peoples, like the Majhi, are trying to revive their almost dead customary self-governing institutions.

In the case of the TaMhang (Thakali), the new generation is socialized in western and dominant Hindu cultural and educational systems, and are successful in attaining modern higher education and generating wealth. But they are forgetting their own customs, traditions and collective way of life. Many foreign social scientists, especially anthropologists and linguists, have contributed to the understanding of TaMhang history, culture, society, economy, language, and religion, and most of the TaMahang passionately engage in discussions on their own

history and culture. Some have even written on various aspects of TaMhang society and culture, but there is no book or article that would give a holistic picture of the TaMhang customary self-government system. Asia Indigenous Peoples Pact (AIPP) has been instrumental in helping to fill this gap by supporting research on this and by publishing this study.

As TaMhang minds have been colonized since centuries, it is really a herculean task to separate original indigenous tradition from borrowed or influenced external traditions. Given the continuing oral tradition of the TaMhang, and at the same time the gradual disappearance of knowledgeable elders without leaving written, audio or audio-visual footprints, it is always a daunting task to clean the present mess relating to various aspects of TaMhang society and culture. Hence, many names, terms, concepts, rituals, practices, and meanings are well contested by those who are brought up in different traditions ranging from animism, Jhankri (Shamanism) and Bon to Buddhism and Hinduism.

This study is intended to help TaMhang to rewrite our own history ourselves by weeding out colonized and manufactured aspects, and by indigenization (that is, retaining original aspects that were handed down by ancestors for generations), and also to inspire practicing and/or revitalizing and reclaiming customary self-governing institutions in its pristine form.

Although I have tried my best to decolonize and indigenize our stories, it should not be taken as its end. Instead, this work should be taken by all TaMhang as a beginning, and ongoing work, of such processes, and we further need to weed out colonized versions as much as possible so that we would be able to hand over clean versions of our history and culture to our children and generations to come.

The participants of the Talking Circles in Nambarjhong (Kobang) and Yen (Kathmandu) that included the *Ghampa*, elders, Chair of the Thakali Welfare Committee, and the Thakali Research Center, and intellectuals deserve many thanks for providing necessary information and interpretations.

Similarly, I have benefited enormously from discussions on customary self-governing institutions, including that of the TaMhang within AIPP's Indigenous Self-Governance and Democracy Project. Gam A. Shimray and Charu Bikash Tripura of AIPP, resource persons Christian Erni, Lanu Longkumer, Colin Nicholas, Mathura Bikash Tripura, Anne Lasimbang, Jannie Lasimbang, and fellows of the pilot course from Bangladesh, Nagaland, Nepal and Malaysia.

Also, I am grateful to TaMhang elders Omkar Prasad Gauchan, Keshab Bhattachan and Kul Bahadur Gauchan for sharing their knowledge. Many thanks also to Jawahar Bhattachan (*Ghampa* of Nambarjhong), Som Tulachan (Chairperson of the ThaSeSa), T. P. Gauchan (Chairperson the the Thakali Research Center), and Yasso Kanti Bhattachan (eminent indigenous women leader of Nepal). Thanks also to Chandra Bhattachan, Junu Gauchan, Shankar Limbu, Sarita Pariyar, Durga Mani Yamfu, Tahal Thami, and Nanda Kandangwa for their help and support at various stages of my research work on the TaMhang.

Krishna B. Bhattachan
October 2022

ACRONYMS

ACAP	Annapurna Conservation Area Project
CDO	Chief District Officer
CSGS	Customary Self-Government System
DAO	District Administration Office
DDC	District Coordination Committee
FPIC	Free, Prior and Informed Consent
ILO	International Labour Organization
LAHURNIP	Lawyers' Association for Human Rights of Nepalese Indigenous Peoples
LTR	Land, Territories and Resources
NEFDIN	National Foundation for Development of Indigenous Nationalities
NEFIN	Nepal Federation of Indigenous Nationalities
NGO	Non-Governmental Organization
NPC	National Planning Commission
NTNC	National Trust for Nature Conservation
TC	Talking Circle
ThaSeSa	Thakali Sewa Samiti (Thakali Welfare Organization)
TRC	Thakali Research Center
TSGS	TaMhang Self-Government System
UK	United Kingdom
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
US	United States of America
VDC	Village Development Committee

GLOSSARY

Note: The glossary contains mostly *TaMhang* words. It includes a couple of word-entries in Khas Nepali and other languages. Khas Nepali words are indicated by [KN], Dhimal words by [D], Latin words by [L], Magar words by [M], Majhi words by [Ma], Tamu words by [T], Tharu words by [Th], and Yakthung words (Limbu) by [Y].

Abhibhara

Name of a magazine. *Abhibhara* is a Khas Nepali word meaning ‘Responsibility’ [KN]

Aarangse Karanse

Slaves/Kamara Kamarai/domestic workers

Amali

Local administrator appointed by the central government [KN]

Arga Mansoor Baidar Manirajphowe

One of the eleven *Chyogi Ghyu*

Ashwin

Mid-September to Mid-October in the Bikram calendar, a historical calendar used in the Indian subcontinent [KN]

Astu

Pieces of bones of the remains of the dead that are buried in a sacred place in either of the three villages Lhasin Shyakpo, Lhasa, or Nambarjhong

Bajhang

A district in far-western Nepal [KN]

Banyauala

A tax paid by outsiders for the right for grazing sheep

Bemchang

Written constitution popular in Maitang

Bhaladmi

Mhidhen Myurba, i.e., respected elders; Bhaladmi were introduced as a part of the Darma Panchayat imposed by the government [KN]

Bhalamtan Mhataasi

One of the eleven *Chyogi Ghyu*

Bheja

Customary self-government of the Magar of Bahra Magart [M]

Bhurgi

One of the four *Phyas*, known as *Bhattachan* in Khas Nepali

Bhurjungkot

Originlly known as *Yubanhurbu* and previously as *Phutikhang* which is one of the thirteen *Hyul* in Thasang

Budha

Local administrator appointed by the central government [KN]

Bukyan

Pasture, also called as Danfe Charan in Khas Nepali [KN]

Chairo

Ancestral land of Chairotan Indigenous Peoples who are extinct

Chaieettun

One of the six *Salgi Gyhu*

Chantafulung

Previously and nowadays known as *Tiri*, which is one of the 13 *Hyul* in Thasang

Chikale

Previously known as Thumbu, and now known as Dhambu in Khas Nepali which is one of the thirteen *Hyul* in Thasang

Chim

Ancestral land of Chimtan Indigenous Peoples

Chod-yig

Treaty

Chowang Mhirki

One of the nine *Bhurgi Ghyu*

Chyogi

One of the four *Phyas*, known as Gauchan in Khas Nepali

Chyongman

One of the six *Salgi Gyhu*

Chyupakhyupa

One of the six *Salgi Gyhu*

De facto

In the fact, but not by legal right [L]

De jure

By legal right [L]

Dhambu

Originally known as Chikale, and previously known as Thumbu which is one of the thirteen *Hyul* in Thasang

Dharmachyang

Also known as Mlangkyu or Kyula, nowadays known as Lete in Khas Nepali which is one of the thirteen *Hyul* in Thasang

Dhimjzen

One of the four *Phya*, known as *Sherchan* in Khas Nepali

Dhom

Shaman or Jhankri in Khas Nepali

Dhomphowe

One of the seventeen Dhimjzen *Ghyu*

Dhong

Maachhi Charan in Khas Nepali is forest adjacent to the *Hyul* settlement, and is directly administered by the *Ghampa*

Dhuche

One of the thirteen *Hyul* in Thasang, which was originally known as Hansara, and now known as Tukche in Khas Nepali

Dhunba

Religious priests of the Bon religious tradition

Dhyatan

Each of the *Chyogi Phya Salgi Phya*, and *Bhurgi Phya* has a *Dhyatan Ghyu*. Though they belong to different *Ghyu*, marital relationship among *Dhyatan* of different *Ghyu* is prohibited as it is considered as incest.

Dhyonthyonchhokee

One of the seventeen *Dhimjzen Ghyu*

Ghampa

Customary leader, of which there are three kinds: *Hyul Ghampa* or just *Ghampa* (village leader), the *Phya Ghampa* (clan leader) and the *Ghyu Thalo* (lineage leader)

Ghasa

Originally known as Sartachyang and previously as Nhasang in Khas Nepali. It is one of the thirteen *Hyul* in Thasang

Ghoila

Cloth given to sisters and daughters of the *Ghyu* of the deceased

Ghundal

The name of the working group as well as the name of the members of the group to assist the *Ghampa*. It is also known as *Thini/Thiye/Thimi*

Ghyatobra

Place where the three *Khe* met *Khe* Paukuti

Ghyu

Lineage. In total there are 40 lineages belonging to the four clans (*Phya*)

Gumba

Buddhist monastery [KN]

Guth

Customary self-government of the of the Magar of Tanahu [M]

Guthi

Customary self-government of the of the Jyapu [N]

Hansara

One of the thirteen *Hyul* in Thasang, which was also known as Dhuche, and now known as Tukche in Khas Nepali

Hansa Raja

Ironically, many TaMhang claim without any evidence that they are the offspring of the Jumla prince *Hansa Raja* and Thini Princess *Nhima Rani*, who are said to have no offspring [KN]

Hyul Ghampa

Also just called *Ghampa*, is the customary village leader

Hyul Jhomp

General Assembly of all eligible *Hyul* citizens. It is held annually

Hyul-Mhi

Villager or citizen

Hyul Ngha

“Five villages”, the name of a valley in Maitang inhabited by the Thin, Syang, Chim, Marpha and Chairo Indigenous Peoples

Hyulthim

Customary self-government of the Hyolmo [H]

Jajarkot

A district in mid-western Nepal [KN]

Jhankri

Dhom is a shaman known as Jhankri in Khas Nepali [KN]

Jhara

Unpaid voluntary collective work by community members [KN]

Jhat Kuriya

TaMhang households who have both a house and land in the *Hyul*

Jhol Piyaune

It is a tax of Rs. 25 paid by each yak or shepherd. Also known as *Syafal* or *Kharchari* in Khas Nepali [KN]

Jhong Samba

Original name of Jomsom; literal meaning is ‘new fort’

Jhoyma

Buddhist nun

Jhuma

Buddhist Nun. Traditionally, the second daughter used to be Jhuma [KN]

Kaamasara

A customary tax. Each yak and/or sheep herder pays one young lamb to the community

Kachahari

Customary self-government of the Magar Kham of Athara Magarat [M]

Kalapani/Kalopani

Khas Nepali name of a place in Dharmachyang or Mlangkyu, also known as Lete. It is one of the thirteen villages in Thasang; The four *Khe* examined water in Kalapani [KN]

Katuwal

Also called *Tameldar* in Khas Nepali and Chowa in TaMhang Kai: village messenger [KN]

Kghoila

Cloth given to sisters and daughters of the *Ghyu* of the deceased)

Khangalo

Name of a magazine

Khangthang

One of the seventeen *Dhimjen Ghyu*

Kharchari

It is a tax of Rs. 25 paid by each yak or shepherd. Also known as *Syafal/Jhol Piyaune* in Khas Nepali

Khas/Khas Arya

Article 84(2) of the Constitution of Nepal, 2015 states “For the purpose of this provision, Khas Arya means Chhetri, Brahmin, Thakuri and Sannyasi (Dasnami) community.” [KN]

Khau Mhirki

One of the eleven *Chyogi Ghyu*

Khe

Male ancestor and clan founder

Khe Ani Airam

Ancestor of *Chogi Phya* who came from Nhupcan (Western Tibet) and settled in Lhasin Shyakpo

Khe Dakpa Ghelsang

Ancestor of the *Dhimjzen Phya*

Khe Paukuti

Ancestor of of the *Bhurgi Phya*

Khe Samledhen Samlecyang

Ancestor of the *Salgi Phya*

Khimi

Khe-Mom; one of the marriage rituals to separate and move the bride’s *Phya* and *Ghyu* to the groom’s *Phya* and *Ghyu*. It is also the name of the sacred place to deposit last remains, especially a piece of bone, in one place in the TaMhang ancestral land

Khimi Chuwa

A ritual organized by the brides’ *Ghyu* members to “separate the bones”, which means to change the membership of the bride from her natal *Phya* and *Ghyu* to that of the groom’s *Phya* and *Ghyu*

Khimi Dhim

A place in Thasang ancestral land where each *Ghyu* deposits *Astu*

Khimi Ramjehn

Annual worship of ancestors at the *Khimi Dhim* in the ancestral land

Khochesnam

One of the eleven *Chyogi Ghyu*

Khomhirkee

One of the eleven *Chyogi Ghyu*

Khumtisa

One of the thirteen *Hyul* in Thasang previously known as Nakung and today Naakung in TaMhang Kai

Khunara

One of the nine *Bhurgi Ghyu*

Kipat

Communal, meaning land tenure system of Nepal [KN]

Koncha/Konchaphlum

Originally known as Konchaphlum and previously as Kuncho, it is one of the thirteen *Hyul* in Thasang

Kopang/Kobang

Originally known as Nambarjhong which is one of the thirteen *Hyul* in Thasang

Kumar

Boys undergoing initiation rites [KN]

Kyula

Also known as Mlangkyu and previously known as Dharmachyang,

nowadays known as Lete in Khas Nepali, which is one of the thirteen *Hyul* in Thasang

Lal Purja

Individual land ownership certificate [KN]

Lama

Buddhist monk

Lamakhangten

One of the eleven Chyogi *Ghyu* and also one of the six Salgi *Ghyu*

Lamaphope

One of the nine *Bhurgi Ghyu*

Lamaphowe

One of the seventeen *Dhimjzen Ghyu*

Laraghera

One of the eleven Chyogi *Ghyu*

Larjung

Sanamchhong is known as Larjung in Khas Nepali which is one of the thirteen *Hyul* in Thasang

Lete

Also known as Kyula or Mlangkyu and originally known as Dharmachyang, which is one of the thirteen *Hyul* in Thasang

Lha

Ancestral deities

Lha Chyurin Gyalmo

Deity of Salgi *Phya*, represented by a mask of an elephant's head

Lha Fewa

Festival of coming of four ancestral deities every twelve years in Thasang

Lha Ghangla Singi Karmo

Deity of *Dhimjzen Phya*, represented by a mask of a lion's head

Lhakangdhunggiee

One of the seventeen *Dhimjen Ghyu*

Lhakanggumba

Buddhist monastery of the Shakyapa sect at Nambarjhong

Lha Langba Nhurbu

Deity of the Chyogi *Phya*, represented by a mask of a Dragon's head

Lha Nari Jhyowa

Female deity

Lhanmhadhen Lhanmachyang

One of the seventeen *Dhimjen Ghyu*

Lhasa

Original name of present day Khanti, one of the thirteen *Hyul*

Lhasarke Bhalamchyang

One of the seventeen *Dhimjzen Ghyu*

Lhasin Shyakpo

The place where *Khe Ani Airam* settled

Lha Yhawa Rangjyung

Deity of *Bhurgi Phya*, represented by the head of a real yak

Lipuchyang

One of the nine *Bhurgi Ghyu*

Lo

A former kingdom north of Thasang

Mahatawa

Customary self-government of the Tharu of Banke, Bardiya, Kailali and Kanchanpur, also known as Bargharia and Bhalmansa in other parts of Tharuwan/Tharuhat nation [Th]

Maitang

Original name of present-day Mustang

Manang

A district in Western Nepal bordering *Maitang* [KN]

Marche Bukyan

One of the three types of pasture (Danfe Charan)

Marphali

People of *sPun-gri* are known as Marphali in Khas Nepali

MharsampaTiri

Previously known as Taulu Tiri and nowadays known as Taglung in Khas Nepali, which is one of the thirteen *Hyul* in Thasang

Mharsyangque

A sacred river in north east of Thasang from where *Lha Fewa* festival ritual originates

Mhatung

Part of the property of a deceased person that is given to the eldest son-in-law

Mhiching

One of the nine Bhurgi *Ghyu*

Mhidhen Myurba

Respected gentlemen, *Bhaladmi* in Khas Nepali language

Mhi Thowa

Indigenous Peoples whose ancestral lands is in Manang are known as MhiThewa of Ngyangmhi/NisyangwaNgyangmhi/Nisyangwa of Manang

Mir Mukhiya

The Chief of thirteen Mukhiya in Khas Nepali

Mom

Female ancestor; grandmother

Mooli Bukyan

One of the three types of pasture land (*Danfe Charan*)

Mrekon

Cash given to female family members of the deceased

mThin

Known as Thini in Khas Nepali: the ancestral land of the Thin Indigenous People

Mukhiya

Khas Nepali for head person, called Ghampa in TaMhang Kai [KN]

Mul Bandej

Customary laws relating to social and cultural activities, above all life cycle rituals and festivals [KN]

Nakhung/Nakung/Naakung

One of the thirteen *Hyul* in Thasang. It was previously known as Khumtisa and is the place where the four *Khe* examined the soil

Nalsabha

Customary self-government of the Tamu (Gurung) [T]

Nambarjhong

One of the thirteen *Hyul* in Thasang, originally known as *Salambyans*, later known as Kopang and nowadays as Kobang in Khas Nepali language

Narchhong

One of the thirteen *Hyul* in Thasang, previously known as Sanamchhong and today as Larjung

NariJhyowa

Deity of all TaMhang

Narlriedhing

Place where the four *Khe* examined stones

Narsanggumba

Buddhist monastery of the *Ningmapa* sect at Lhasa

Nasari

Customary tax paid if two or more herders merge their small herds. The small herders would pay one young lamb to the community

Nhasang

One of the thirteen *Hyul* in Thasang, originally known as Sartachyang and nowadays as Ghasa in Khas Nepali

Ngari

A former state in the Western Tibet

Nhimasar

One of the seventeen Dhimjzen *Ghyu*

Nhokon Cholo

Customary dress of TaMhangyasa

Nhorjaphowe

One of the seventeen Dhimjzen

Nhorsolathima

One of the seventeen Dhimjzen

Nyahyang

We

NhyangMhi

Indigenous Peoples of Nar and Phu whose ancestral land is in Manang. They are also known as Nisyangba, and Manange in Khas Nepali

Nhyahyangmhirkee

One of the nine *Bhurgi Ghyu*

Nisyangba

Indigenous Peoples whose ancestral land is in Manang. They are also known as NhyangMhi, and Manange in Khas Nepali

Omda Kyu

Kali Gandaki River

Pakera

One of the seventeen Dhimjzen *Ghyu*

Panre

Priest of the *Phya*. Each *Phya* has a Panre

Phelauriye-Mhi

Outsiders, alien people

Phutikhang

Originally known as *Yubanhuribu* and today Bhurjungkot which is one of the thirteen *Hyul* in Thasang

Phya

Clan. There are four clans, comprising 40 lineages

Pompar

One of the seventeen Dhimjzen *Ghyu*

Phrathhorse Saratdhirse

One of the nine Bhurgi *Ghyu*

Qulaf

Rhaksi, distilled hard liquor

Ranigumba

Buddhist monastery of the Nigmapa/Kagyupa sect at Hansara

Rgam-shag

Treaty

Rhaksi

Qulaf, distilled hard liquor [Hybrid name, i.e., Khas Nepali Raksi pronounced *Rhaksi*]

Rhap

Clan history of four *Phyas*, which is read out in public during the *Lha-Fewa* festival every twelve years

Salambyansi

One of the thirteen *Hyul* of Thasang, originally known as Nambarjhong,

previously known as Kopang and nowadays as Kobang in Khas Nepali language

Salgi

One of the for *Phyas* known as *Tulachan* in Khas Nepali

Salyan

A district in mid-Western Nepal

Samba gumba

Buddhist monastery of the Kagyupa sect at Hansara

Sanamchhong

One of the thirteen *Hyul* in Thasang, previously known as Narchhong and today as Larjung

San Korne

Collection of dried fallen conifer needles

Sanskritization/Hinudization

Emulation of norms, values, language, culture and life style of “high caste” Hindu by Dalits and Indigenous Peoples

Sarke

Language, spoken by people of Maitang and neighboring areas

Sartan

One of the seventeen Dhimjzen *Ghyu*

Sartachyang

One of the thirteen *Hyul* in Thasang, also known as *Nhasang*, and *Ghasa* in Khas Nepali

Shang Shung

A kingdom in western Tibet

Shravan

Mid-July to Mid-August in the Bikram calendar [KN]

sPun-gri

Indigenous Peoples of Maitang, also called Marphali Thakali. It is also the name of the ancestral land of the sPun-gri (*Marphatan* in Khas Nepali)

Soru-bi

Thini

Srestedar

Registrar [KN]

Syafal

It is a tax of Rs. 25 paid by each yak or shepherd. Also known as *Kharchari/Jhol Piyaune*

Syang

Indigenous Peoples who live in their ancestral lands Syang

Syangtan

One of the groups of Tingaunle Thakali whose ancestral land is in Syang of Maitang

Taglung

One of the thirteen *Hyul* in Thasang, originally known as Mharsampa Tiri, and as Taglung in Khas Nepali today

Taglung gumba

Buddhist monastery of the Kagyupa sect at Konchphlum

Tahabil Mukhiya

Assistant Head Person with a responsibility for financial matters [KN]

Tameldar

Messenger, also called **Tameldar** Katuwal or Chowa in TaMhang Kai [KN]

TaMhang

Self-designation of the Indigenous Peoples also known as Thakali or Tapang. (Pronounced as Ta-Mhang)

TaMhang Kai

Language spoken by the TaMhang. TaMhang Kai is also called as GhyangKai

TaMhang Dhuli**Damai**

Members of the Hill Hindu Damai caste living in TaMhang communities and who specialize in stitching *Nhkon Cholo*, the customary dress of TaMhangyasa

TaMhang Kami

Members of the blacksmith caste who live in TaMhang communities and specialize in making utensils used by the TaMhang

TaMhangsya

TaMhang women

Tamo

Northern part of Thasang inhabited by Thatan

Tamu

The name by which the Indigenous People also known as Gurung identify themselves [T]

Tanchangphowe

One of the eleven Chyogi *Ghyu*

Taulu Tiri

One of the thirteen villages in Thasang, originally known as Mharsampa Tiri and nowadays as Taglung in Khas Nepali

Teplasaingmhirkee

One of the nine Bhurgi *Ghyu*

Thak

Thak is Khas Nepali refers to Thag, ancestral homeland of the TaMhang (Thakali) [KN]

Thag

Ancestral homeland of the TaMhang, also known as Thasang

ThakKhola

ThakKhola is a Khas Nepali word meaning Thak River and it refers to Thasang [KN]

Thak Sat Sae

Thak Sat Sae is a Khas Nepali word meaning Thak Seven Hundred and it refers to Thasang [KN]

Thakali

TaMhang are well known as Thakali [KN]

Thakali Sewa Samiti

Thakali Welfare Organization. It is an umbrella organization of all the TaMhang living inside and outside their ancestral lands

Thalu

Local administrator appointed by the central government [KN]

Thalo

Head of the *Ghyu*

Thasang

Ancestral homeland of the TaMhang, also known as Thag

Thim

Customary self-government of the Tamang

Thin

One of the five Indigenous Peoples of Hyul Ngha

Thinan

One of the groups of Tingaunle Thakali whose ancestral land is in Thini in Maitang

Thini

Khas Nepali name of the ancestral land of the Thin Indigenous People, otherwise known as mThinis

Thini/Thiye/Thimi

The working group, also called Ghundal, which assists the Ghampa

Thomphobe

One of the eleven Chyogi *Ghyu*

Thumbu

Originally known as Chikale, and now a days it is known as Dhambu in Khas Nepali which is one of the thirteen *Hyul* in Thasang

Tingaunle Thakali

During legislation of the National Foundation for Development of Indigenous Nationalities, the legislatures merged Thintan, Chimtan and Syangtan into Tingaunle Thakali and it was recognized as one of the 59 Indigenous Nationalities

Toranglha

The biggest festival of TaMhang in which each family feed their ancestors in three midnights during before and after full moon in spring

Tukche/Thugche

The Khas Nepali name for Hansara or Dhuche, which is one of the thirteen *Hyul* in Thasang [KN]

Tumyang

Customary respected knowledgeable leaders as the main pillar of customary self-government of the Yakthung (Limbu) [Y]

Yakthung

The name by which the Indigenous Peoples otherwise known as Limbu identify themselves [Y]

Yubanhurbu

One of the thirteen *Hyul* in Thasang, previously known as Phutikhang and today Bhurjungkot

Yul kha bcu-gnyis

Barhagunle (Barhagunle in Khas Nepali)

Introduction

1

The Nepal government has officially recognized and listed 59 Indigenous Peoples,¹ including the Thakali (TaMhang)² of the Thasang.³ Some Thakali strongly prefer to identify themselves, following their grandparents and parents and other elders, as TaMhang, while others prefer to call themselves as Thakali due to the popularity of that name.

Participants of the Talking Circle and the validation of the research findings, both in Thasang and Kathmandu, agreed to use the combination of TaMhang (Thakali) as a middle path. Hence, for the sake of a better flow of the text and at the same time to respect their suggestion I am using here TaMhang as referring to TaMhang (Thakali).

LAHURNIP (2015) has documented customary self-government systems of some Indigenous Peoples with both large and small populations, such as the *Guthi* of the Newa (Newar), Ghampa (Mukhiya in Khas Nepali) of the TaMhang (Thakali), *Majhi Warang* of the Dhimal, *Barghariya/Bhalmansa/Mahatawa* of the Tharu, *Hyulthim* of Hyolmo, and *Guthi* of the Jyapu, *Bheja* of the Magar. Many Indigenous Peoples with small population sizes, like the Baram and Bhujel, have already lost their customary self-government systems (henceforth CSGSs).

Interestingly, CSGS of the Indigenous Peoples of *Maitang* (Mustang)⁴ continue to function, although they are now rapidly weakening due to external intervention specially by the government, and out-migration of its community members (Bhattachan 2002; Bhattachan 2007; Rai et al. 2015). The CSGSs of other Indigenous Peoples, such as the *Tumyang* of the Yakthung (Limbu), *Thim* of the Tamang, *Majhesabha* of the Majhi, or the *Nalsabha* of the Tamu (Gurung) are in a process of revival to bring them back to life from the verge of extinction.

¹ In Nepal Indigenous Peoples are known as Adivasi Janjati (“indigenous nationalities”).

² The National Foundation for Development of Indigenous Nationalities Act, 2002. (<http://faolex.fao.org/docs/pdf/nep202214.pdf>).

³ Thasang is the name of the Thakali ancestral territory. In the past it was known as the Thag, and in Khas Nepali it is called Thak Sat Sae, Thak Khola or just Thak.

⁴ See footnote on Page 2.

In the past, King Prithvi Narayan Shah had made a treaty with the Yakthung (Limbu, in Khas Nepali) Indigenous Peoples. Regmi (1965, p. 88) quotes the treaty:

Although we have conquered your country by dint of our valor, we have afforded you and your kinsmen protection. We hereby pardon all of your crimes, and confirm all the customs and traditions, rights and privileges of your country.... Enjoy the land from generation to generation, as long as it remains in existence.... In case we confiscate your lands... may our ancestral gods destroy our kingdom.

So, the Yakthung had a nation-to-nation treaty, comparable to the treaties between the Native Americans of the US or the First Nations of Canada with the respective colonial governments. The Yakthung lost their rights with the abolition of *Kipat* (communal land tenure system) by King Mahendra in 1963.

The CSGSs of some of Nepal's Indigenous Peoples, like the Ghampa, *Guthi*, *Barghar/Bhalmansa/Mahatawa*, *Majhi Orang*, *MhiThowa* lost control over natural resources since the 1970s after the establishment of national parks, followed by wildlife reserves, wildlife hunting grounds, community forests, collaborative forests, and in the case of TaMhang and other Indigenous Peoples of Maitang and Manang, after the establishment of the Annapurna Conservation Area Project (ACAP) in 1986.

Although Nepal has adopted the UNDRIP, and ratified ILO Convention no. 169, both in 2007, the demand for the right to

⁴ Among them the Ghampa of the TaMhang (Thakali), Baragaunle, Tingaunle Thakali (Thin, Syang and Chim) and Marphatan or Marphali Thakali (sPun-gri), *Barghar/Bhalmnasa/Matawa* of the Tharu (Khadka, 2016), *Guthi* of the Newar, *Majhi Warang* of the Dhimal, *Thim* of the Tamang, *Bheja/"Kachahari"/Guth* of the Magar, and *MhiThewa* of Ngyangmhi/Nisyangwa (in Khas Nepali called Manange) of Manang.

Instead of Mustang, Maitang is used throughout this study. According to TaMhang elder Keshab Bhattachan, TaMhang refer to Mustang as Maitang. Mustang was known as Lho Mustang. With a long history of colonization of the TaMhang, many names, including TaMhang, and Maitang are contested among the TaMhang as well. Clarity about original names would emerge with indepth research of both oral and written history and culture.



Photo 1. A *Hyul Jhomba* for preparation of *Toranghlha*. [KBB]

self-determination as enshrined in Article 3 of the UNDRIP raises eyebrows of the government and leaders of the main political parties. However, article 46 clarifies that the UNDRIP shall in no way pose any threat to the “territorial integrity or political unity” of the existing state.

In Nepal, as elsewhere, particularly in Asia, a shared understanding of and approach to the right of self-determination of Indigenous Peoples is yet to emerge. Also, Indigenous Peoples, including the TaMhang, have the right to practice self-government based on their own political, legal and social institutions, a right recognized in the UNDRIP’s article 5.

This case study documents existing forms of customary self-government systems of the TaMhang, and analyzes their situation with regards to the extent of self-determination of their own communities within the existing political-administrative framework of Nepal.

There is a dearth of literatures that provide details about it even though the TaMhang is one of the three Indigenous Peoples (the others being the Sherpa and the Newar) most studied by anthropologists, who had started field research in Nepal in the 1950s.

Most of the published works are in the form of dissertations and a few monographs (see bibliography in Vinding and Bhattachan, 1985; a section on Thakali in Gurung and Bhattachan, 2006) but none has focused exclusively on the CSGSs of the TaMhang. Partial information about it is available in books written by Naryanprasad Chetri (1987/088), Michael Vinding (1998), William Fisher (2001), and Andrew Eric Manzardo (1978), and articles written by Dor Bahadur Bista (1971), M. L. Karmacharya (1991, and 1995), Dieter Schuh (1991), Jyoti Bhattachan-Khunara (2013), Junu Gauchan (2015) and Naresh Tulachan (2016).

Op-ed articles published in magazines, namely *Khangalo*, *Phalo*, *Abhibhara*, and *Thasang* also provide information about CSGSs of the TaMhang.

Methodology and Definitions

2

Concerning the research process and methods applied in this study, much of the study is based on information found in the literature, i.e., secondary sources including books, articles, reports and historical documents. These are supplemented and complemented by existing knowledge acquired by the researcher as a TaMhang, sociologist and indigenous activist.

The information obtained was validated and additional information was collected in two whole-day Talking Circles (TC) in Kathmandu with TaMhang elders, experts and intellectuals, leaders and young researchers, both men and women, representing the leaders of the Thakali Sewa Samiti (ThaSeSa) and the Thakali Research Center (TRC). Non-TaMhang indigenous experts associated with the Lawyer's Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) also participated in these Talking Circles. Also, a half-day program was organized in Thasang, the ancestral land of the TaMhang in Maitang⁵ for validation of the draft report.

The draft report was revised by integrating feedback from the overall study team leader at the AIPP. The final report was validated again in a half-day program held in Kathmandu on 2 November 2019 with TaMhang elders, experts, intellectuals, researchers associated with the ThaSeSa and the TRC.

In addition to using “mainstream” social science methodology, indigenous methodology is used as much as possible and practicable (decolonizing, re-writing, re-righting, re-presenting, re-claiming and also data-generating techniques using talking/sharing circles) (Chilsia, 2012; Smith, 1999).

Data are mainly of qualitative nature but relevant simple quantitative data available in the literature are also used to supplement and complement the qualitative data.

⁵ Mustang is the name in Khas Nepali language and it is popular. However, Maitang is its original name; hence as a part of the process of decolonization, I will use Maitang.



Definitions of some of the key concepts used in this study are as follows:

Thakali

Thakali refers to the Indigenous People who call themselves TaMhang and comprise of four *Phya* (clan): Chyogi (Gauchan in Khas Nepali), Salgi (Tulachan in Khas Nepali), Dhimjzen (Sherchan in Khas Nepali) and Bhurgi (Bhattachan in Khas Nepali). Vinding (1996) used the term Thakali to refer to TaMhang, sPun-gri, Thin, Chimtan and Syangtan, in spite of the fact that these are distinct Indigenous Peoples.⁵



Photo 2. Ghampa along with community members of *Nambarjhong* worshipping nature for a good harvest. [RKS]

I will use the term TaMhang only for the people comprised of the four clans mentioned above. In the list of 59 indigenous nationalities provided in the National Foundation for Development of Indigenous Nationalities Act, 2002, Thakali is used to refer to the TaMhang, Marphali Thakali for the sPun-gri, and Tin Gaunle Thakali for the Thintan, Chimtan and Syangtan.

Customary laws

Customary laws are understood here as laws governing everyday life and systems of family, marriage and kinship, life cycle rituals, festivals, spiritual or religious practices, ownership or use of, or

⁵ I asked Michael Vinding at Sanamchhong (Larzung) in Thasang, why he included other Indigenous Peoples, who have their own distinct identity, and ...

.. core elements of society, culture, religion and custom, as Thakali. His reply was to increase cooperation among them. Indigenous Peoples of mountain region are often treated as inferior by the Hill people by referring all of them as *Bhote*, implying “dirty” people.

access to lands and resources of ancestral lands and territories, and judicial administration with focus on restorative justice that have been formulated consensually over time and have been transmitted through oral tradition and practice from generation to generation.

Customary Self-government Systems

Customary self-government systems mean the totality of spiritual, religious, social, cultural, political, and judicial systems governed by customary laws and executed through customary institutions and organizations.

Customary self government of Indigenous Peoples

Customary self-government of Indigenous Peoples is understood here as the ability of Indigenous Peoples to exercise their inherent, inalienable, indivisible and natural right to self-determination, spiritual and collective power through the ability to govern freely, without external control or imposition or colonization, over internal affairs of their collective way of life to balance nature, spirits and living beings through their customary laws, institutions and traditions that were handed down to the present generation by previous ones and will be transferred to the next generations.

Ghampa

Ghampa is a TaMhang term which means leader and is used primarily to refer to leaders of a *Phya* (clan), and the *Hyul* (village). The leader of a *Ghyu* (lineage) is called *Thalo*, not Ghampa. Although some TaMhang elders and scholars use the Khas Nepali term Mukhiya by avoiding the term Ghampa to refer to the chief of the *Hyul* (as Ghampa is used to refer to leader of *Ghyu*), literature has revealed that in the past, Ghampa was used to refer to now widely used Khas Nepali term Mukhiya.

Henceforth, only Ghampa will be used to discontinue the Khas Nepali term Mukhiya. Further, Ghampa is like the term ‘chairperson’, which is applicable to leadership position of any level.

Profile of the TaMhang Indigenous People

3

Brief history

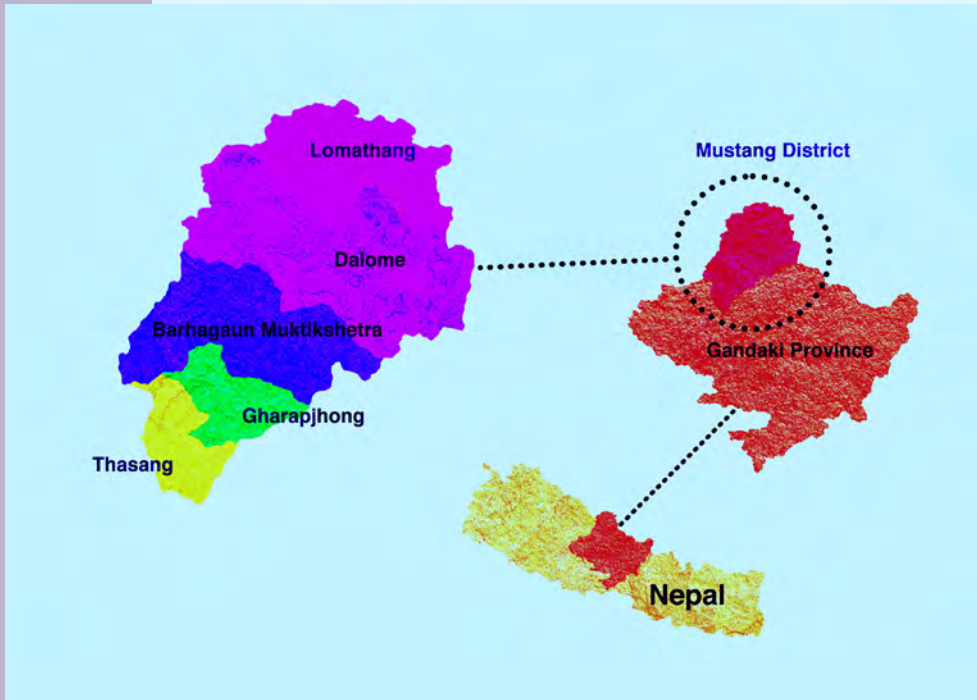
In the past, the sovereign TaMhang nation was colonized by the Jumla, Parbat, and Gorkha, and now by Nepal. The monastery of Maiki Lakhang Gumba at the TaMhang *Hyul* of Nambarjhong that used to be the southern border of Western Tibet. In Tibetan language, *Maiki Lakhang* means southern border. Vinding (1988) has given details about the history of Thasang.⁶

The history of Tibet dates back to the 5th century AD with an emergence of the Tibetan state in the Yarlung valley. The recorded history of the present-day Maitang dates back to the 7th century AD. Tibtean king Songtsen Gampo conquered the Shang Shung kingdom in Western Tibet, and the kingdoms of Lo and Serib in the 7th century AD. After its fall in the 10th century AD, Ngari state emerged in the old Shang Shung. In the 13th Century AD, the Jumla kingdom conquered Ngari and Gungthang and influenced Lo and Serib, and in the 14th Century AD, Jumla conquered Lo. Both Jumla and Lo came under the rule of Ladakh in the 16th century, but Jumla defeated them a decade later.

In the 18th century, Lo was controlled by Jumla. Later, Lo was influenced by King Malla of the neighboring Parbat kingdom. In 1788, Gurkha King Prithvi Narayan Shah had war with Jumla and Tibet and conquered Jumla in 1786. Since then, Maitang has been under the Nepali state and thus, internal colonization of the TaMhang by the Hill Hindu Bahun-Chhetri began. Archaeological excavations done by the Department of Archaeology in collaboration with German archaeologists in Mharsyangque in Thasang, and in the caves in upper Maitang, revealed that the history of Maitang is 2900 years old, 1200 years older than the written history of Nepal.

⁶ Vinding (1988) provides a detailed history of Thasang/Thag [Thak Khola] and Jackson (1976; 1978) gives a history of Lo, Nagri and Serib.

Map 1. Location of Thasang within Maitang (Mustang district)



Name

Thakali is the Khas Nepali name for the Indigenous People who identify themselves as TaMahang or Tapang. Before 1950, the term Thakali referred to only the TaMhang, but after 1950s, the Punel and Thintan Indigenous Peoples also began to identify themselves as Thakali in the process of Sanskritization. It is highly likely that the term Thakali is a Khas Nepali version of “people of Thag” (pronounced in Khas Nepali as Thak), just like the people of Gorkha are called Gorkhali, and the people of Nepal are called Nepali. TaMhang (or Tapang) means “brave horse rider”.

The northern neighbors of the TaMhang, including the Loba, Bahra Gunle, and Tangbe, used to call them Thagpa, the southern neighbors Thakse, and the eastern neighbors Ghyanmgmhi/Nisyangb (Manange) used to call them Thyatan. The Hill Bahun Chetri often still use Bhote when referring to TaMhang and

Map 2. Location of the thirteen *Hyul* within Thasang



other mountain Indigenous Peoples, which is a derogatory name meaning dirty people. The Thakali Subba tried to get rid of such stereotype and degradation by identifying themselves as Thakali. It is highly likely that the first generation of TaMhang migrants in Kathmandu may have adopted the term Thakali from Newa Indigenous People. Among the Newa, Thakali means the elder leader or the headman.

Hence, Thakali is the Khas Nepali version of TaMhang, and it is a name adopted in the process of Hinduization after coming close to the Rana rulers. What is important is how the TaMhang identify themselves. When TaMhang interact among them, they identify themselves as *Nghyang* TaMahang (“We TaMhang”). TaMhang, and Tamang, another Indigenous People whose ancestral land is around the Kathmandu valley, are different Indigenous Peoples

with their own distinct culture, history and way of life, although some Tamang intellectuals and leaders believe that the TaMhang is its breakaway group.

Ancestral territory and settlements

Thasang/Thag, the ancestral territory of the TaMhang, lies at the bank of Omda Kyu (Kali Gandaki river) in the southern parts of present-day Maitang (Mustang district) of Nepal that lies in a trans-Himalayan region. Traditionally, Maitang is divided into four regions, namely, Lo, Yul kha bcu-gnyis (in Khas Nepali Barhagunle), Hyul Ngha (Khas Nepali: Panchgaun) and Thasang. Lo is at the northern part of Maitang adjoining Tibet, China, and Thasang is the southern part of Maitang, adjoining Myagdi district in the south inhabited primarily by Magar Indigenous Peoples, Dolpo in the west inhabited by Dolpo Indigenous Peoples, and Manang in the east inhabited by NhyangMhi (Nisyangba) Indigenous Peoples.

Thasang and Hyul Ngha are the deepest valleys on earth, as they are located in between Mount Dhaulagiri (8,167 meters), the 7th highest mountain in the world, and South Nilgiri Himal (6,839 meters). Sartachyang/Nhasang (in Khas Nepali Ghasa), the southern village of Thasang, is at 2,010 meters, followed by Dharmachyang (Lete) at 2,530metres, Mlangkyu (Kalopani in Khas Nepali) at 2,530 meters, Mharsampa Tiri (Taglung) at 2,560 meters, Sanamchhong (Larjung) at 2,560 meters, and Hansara (Tukche), the northern part of Thasang at 2,586 meters (Gurung, 1980).

In the past, the length of Thasang was 27.5 km and its breadth was 36.24 km, with total area of 5,904 sq. km. At present, according to Jyoti-Khunara (2013, p. 73), it has shrunk to 875 sq. km. The reason for reduction of the total area was incorrect satellite mapping done by the ACAP without any consultation with local TaMhang. The map focused on the mpountain peaks only, not including the area beyond the peaks that are within the territories of Thasang. The northern part of the barren land in Thasang is claimed also by the sPun-gri (Mharpatan or Marphali Thakali).

⁷ None of the members of the Talking Circles recalls its name.

Table 1. Thirteen *Hyul* names in their original TaMhang Kai and Khas Nepali names

	Names used since time immemorial	Names in TaMhang Kai	Khas Nepali Name
1	Hansara (हंसरा)	Dhuche (ढुचे)	Tukche (ढुकचे)
2	Lhasa (ल्हस)	Khanti (खन्ती)	Khanti (खन्ती)
3	Salambyansi (सलम् व्यासी)/ Nambarjhong* (नम्बरझोङ)	Kopang (कोपाङ)	Kobang (कोबाङ)
4	Sanamchhong (सनम् च्होङ)	Narchhong (नरच्होङ)	Larjung (लारजुङ)
5	Khumtisa (क् हुम्तिस)	Nakung (नकुङ)	Naakung (नाकुङ)
6	Yubanhurbu (युवानहुर्बु)	Phutikhang (फुतिकहाङ)	Bhurjungkot (भुर्जुङकोट)
7	Lhasin Shyakpo (ल्हसिन् र्ह्याक्पो)	Narkhung (नरखुङ)	Nafrungkot (नाफरु)/ Naurikot (नाउरीकोट)
8	Chikale (चिकाले)	Thumbu (ठुम्बु)	Dhambu (धम्बु)
9	Chantafulung (चन्ताफुलुङ)	Tiri (तिरी)	Titi (टिटी)
10	Mharsampa (म्हरसम् पाहा)	Talu (तालु)	Taglung (ताग्लुङ)
11	Konchaplum (कोन्चप्लुम्)	Koncha (कोन्च)	Kuncho (कुञ्चो)
12	Dharmachyang (धर्मच्याङ)	Kyula (क्युल)	Lete (लेते)
13	Sartachyang (सर्तच्याङ)	Nhasang (ङ्हासाङ)	Ghansa (घांस)

There used to be a total of fourteen villages, called *Hyul*, in Thasang. One of them, which was located in the northern part of Thasang,⁷ ceased to exist as all the residents migrated elsewhere.⁸ There is a continuing tradition of thirteen *Hyul* since immemorial times. Naresh Kumar Tulachan, General Secretary of the ThaSeSa has listed the thirteen *Hyul* (see Table 1 above), from Northern

⁸ Information provided by Mr. Omkar Prasad Gauchan, founder Chair of the Thakali Research Center based in Kathmandu.

to Southern Maitang, with their historical names and the names used today in TaMhang Kai and Khas Nepali languages.

The fourteen *Hyul* (including the abandoned village) are grouped into three *Tup*:⁹

- i. Chattitup (*Eghara Tola*, or “Eleven settlements” in Khas Nepali) comprises the following four *Hyul*: (1) Nambarjhong (Kopang), (2) Lhasa (Khanti), (3) Sauru,¹⁰ and (4) Hansara (Dhuche).
- ii. Phretup (*Aath Tola* or “Eight settlements”) in Khas Nepali) comprises the following four *Hyul*: (1) Sanamchhong (Narchhong), (2) Khumtisa (Nakung), (3) Yubanhuribu (Phutikghang), and (4) Lhasin Shyakpo (Narkhung)
- iii. Dhutup (*Cha Tola* in Khas Nepali) comprises the following six *Hyul*: (1) Chikale (Thumbu), (2) Chantafulung (Tiri), (3) Mharsampa Tiri *Taulu Tiri), (4) Konchaphlum (Koncha), (5) Dharmachyang (Kyula), and (6) Sartachyang (Nhasang).

⁹ Why the term “*tup*” is used with specific numbers, namely *Chattitup*, *Phretup* and *Dhutup*, and why the numbers do not match with the number of *Hyuls* or settlements could not be determined through literature review or during the field work.

¹⁰ The original name of *Sauru* was not found in the available literature and elders also could not provide its TaMhang name. It is not included in the list of thirteen *Hyul* as it is considered a part of *Lhasa (Khanti)*.

Demographic data

According to the Census of 2001, the total population of the TaMhang was 12,973 (0.6% of the total population of Nepal of 22,736,934) with 6,216 males and 6,757 females. According to the Census of 2011, the total Thakali population, which includes TaMhang, Marpahali Thakali (sPun-gri) and Tingaunle Thakali (Thin, Syang and Chim), was 13,215 with 6,157 males and 7,058 females (see Annexure 2). There are 6,441 Thakali who speak Thakali as the first language. Further, TaMhang whose faith is Buddhism are 8,434; 4,389 are Hindu; Kirati 96; Christian 59; Sikh 3 and others 1.

According to the Census taken by the ThaSeSa in 1994/95, the total population of the TaMhang belonging to Dhimjzen, Chyogi, Salgi and Bhurgi was 7,822 with 3,886 females and 3,936 males (see Annexure 1). The total number of households was 1,507.



Photo 3. Lhasa, Nambarjhong and Sanamchhong along the Omda Kyu (Kaligandaki River). [KBB]



Photo 4. Sanamchhong. [KBB]



Photo 5. Panoramic view of the villages Nambarjhong (on the left), Lha Nari Jhyowa and Lhasa (in the middle) along the Omda Kyu. [KBB]

The average family size was 5.9. Among the four *Phya*, the largest was that of the Dhimjen (Sherchan) with 43.3%; followed by Chyogi (Gauchan) with 31.5%, Salgi (Tulachan) with 13.8% and the lowest was that of the Bhurji (Bhattachan) with 11.4% of the total population. The latest census taken by the ThaSeSa in 2015/16 shows a total population of TaMhang of 10,416, with 5,128 females and 5,288 males (Table 2).

Table 2. Population of the TaMhang

	Phya	Male	Female	Total
1	Chyogi (Gauchan)	1,737	1,730	3,467
2	Salgi (Tulachan)	720	696	1,416
3	Dhimjzen (Sherchan)	2,168	2,059	4,227
4	Bhurji (Bhattachan)	663	643	1,306
	Total	5,288	5,128	10,416

Source: Tulachan, 2016, p.9



Language spoken

TaMhang Kai or Nhyang Kai (Thakali language) is the mother tongue of the TaMhang. There is no script of this language. According to Tulachan (2016, 9) it is a branch of the Sarke language, spoken by people of Maitang and neighboring areas, Tamu (Gurung) and TaMhang of the ancient (Syansung/Shang Shung/zhang chung) state (Vinding, 1988). The number of mother tongue speakers is declining rapidly as the new generation is learning Khas Nepali, English and other languages such as Japanese.

In the TaMhang ancestral lands, the Dalit, i.e., Dhuli (Tailor) and Kami (Blacksmith) speak TaMhang Kai with original intonation. It appears that they are going to be the custodian of TaMhang Kai. This language is also spoken by neighboring Indigenous Peoples, especially sPun-gri (Marphali Thakali) and it is similar to the Seke language spoken by the Tangbe Indigenous People of Yul kha bcu-gnyis or Barhagunle (Baharagaunle in Khas Nepali) in Maitang.

The Census data of 2012 shows that Thakali language was identified as mother tongue by 5,242 people and it includes people belonging to other Indigenous Peoples and Hindu castes (Annexure 3). ThaSeSa has already started a mother tongue training program in Kathmandu for both younger and adult TaMhang.

¹² Sacrifice is integral to the Black Bon tradition but it is prohibited in White Bon.

Faith

The original, ancient faith of the TaMhang is Dhom (shamanism, called Jhankri in Khas Nepali). They later adopted Black Bon,¹² then Buddhism, and some adopted Hinduism as a part of the process of Sanskritization, in order to uplift their social status from derogatory Bhote to Thakuri with higher social status in the Hindu caste hierarchy.

So far only one male TaMhang has adopted Christianity, and more recently hundreds of TaMhang women living in the Kathmandu Valley have joined Sachaiee, which is a sect of Christianity, even though those *TaMhangsya* (TaMhang women) who are in it deny any such connection. Changing adoption of religion by the TaMhang is best summarized by Fisher (2001, p. 5),

..., Giuseppe Tucci in 1951 found signs of both Hindu and Buddhist practices and saw Buddhism gaining in strength. One year later, David Snellgrove felt that Buddhist culture was in decline and only practiced by old women. In the following year, 1953, a Japanese scholar, Jiro Kawakita, observed, that Thakalis “don’t adhere much to either Hinduism or Lamaism,” but he saw what he felt was a revivalism of Thakali [TaMhang] “shamanistic” practices (1957:92). In 1958 Shigeru Iijima saw Hinduism gaining in strength and argued that the shaman’s practice was reduced by the process of Hinduization. In 1962 Furer-Haimendorf described what he observed to be a process of secularization camouflaged as Hinduization.

Of the total eight Buddhist *gumba* (monasteries) in Thasang, Maiki Lhakang gumba at Salambynsi, and Mahakali gumba at Hansara, and Narsang gumba at Lhasa are of the Ningmapa sect, Samba gumba at Hansara, and Taglung gumba at Konchphlum are of the Kagyupa sect, Ranigumba at Hansara is of the Nigmapa/Kagyupa sect, Lhakang gumba at Salmbyansi is of the Shakyapa sect of Buddhism, and Sauru gumba of Nigmapa sect (Tulachan, 2016, p. 9). According to the participants of the Talking Circle, the ninth gumba was in the neighboring village of Chairu, which no longer exists.



Photo 6. Chantafulung. [KBB]



Photo 7. Sartachyang. [KBB]

Land and resources

Compared to the population size and sparse settlements, the territory of Thasang is big. Before 1960, land, territories and resources (henceforth LTR) of Thasang were fully owned, controlled and used through customary self-government systems. The TaMhang gradually began to lose its collective ownership, control and use after the imposition of the autocratic partyless Panchayat rule that nationalized forests, pasture, rivers, and wetlands in the 1960s.

Some TaMhang began to register land with the government as they needed *Lalpurja* (individual land registration certificate) to get loan from the banks, and by now each family owns *Lalpurja*. Before, the Ghampa, in presence of the community, used to authorize who should use which land and whose land is being transferred to whom. Even then, CSGs were so strong and robust that the TaMhang continued to have *de facto* full ownership and control over their LTR, but it lost ownership and control over natural resources with the establishment of the Annapurna Conservation Area Project (ACAP) under the National Trust for Nature Conservation (NTNC) in 1986.

It has now become an irony that the TaMhang had full ownership and control over their LTR during authoritarian rule of the Rana, but now, after Nepal ratified ILO Convention No. 169 and voted for the adoption of UNDRIP in 2007, they have been turned into controlled users. During the Talking Circle (TC), participants estimated that of the total lands owned by individual TaMhang comprise about 70%, but the participants of the validation of the draft report in Thasang said that it is about 85% to 90%. Participants of both TCs and the validation program, said that they have no more ownership and control over forest, pasture and other land and resources.

Economy

In the past, the main economy of Thasang was agriculture, animal husbandry and long-distance trade of salt, wool and food grain



Photo 8. Dharmachyang. [KBB]

along the Kaligandkai corridor. During Rana rule, TaMhang Subba collected highest revenue for the Nepal government. After the end of this historic trade, the economy in Thasang changed, with small businesses and tourism becoming important along with, agriculture, horticulture and livestock (especially yak) rearing.

Hotels and restaurants became part of the economy with increasing popularity of trekking on the Annapurna circuit that includes Thasang as one of the popular tourist destinations. Lower Maitang, including Thasang, is famous for apple farming.

Four types of livelihoods can be distinguished among the TaMhang: (a) those who still live in the ancestral lands, (b) those who have their property in and outside their ancestral lands and who mostly live outside their ancestral lands, (c) those who have



Photo 9. Lhasin Shyakpo. [KBB]

property only outside their ancestral lands and nothing in their ancestral lands, and (d) those who live in foreign countries, such as the UK, the USA, and Japan.

Those TaMhang who still live in Thasang make their living by engaging in agriculture, livestock rearing, trade, construction contract work, and tourism. Those who live in towns and cities outside the ancestral lands, such as Beni, Pokhara, Butwal, Bhairawa, and Kathamndu, are mainly engaged in the private sector (trade, manufacturing, tourism), government administration and services (health and education), or NGOs.

Among some families, members go abroad for employment



Photo 10. Young TaMhangshya welcoming guests. [KBB]

and come back after earning money enough to build houses and do business in Kathmandu and other cities. Those who are settled in foreign countries make their living as professionals, academics or unskilled labourers.

Politics

TaMhang are engaged in both customary politics, and mainstream national and local politics. Most of the TaMhang, like other Indigenous Peoples in Nepal, are members or followers of the main political parties, namely, the Communist Party of Nepal, the Nepali Congress, and the Rastriya Prajatantra Party. As a result, TaMhang are getting divided along party lines.

Education

According to the Census of 2011, the literacy rate of the Thakali is 80.4% (with male literacy rate of 89.1% and female literacy rate of 73.0%). It is the sixth highest among the caste and ethnic groups in Nepal.

This data is a combined data of TaMhang, Marphali Thakali and Tingaunle Thakali. Most of the TaMhang discontinue their education after high school. Those who pursue higher education prefer medical, engineering, information technology and social sciences.

Gender

In the past *TaMhangsya* (TaMhang women) have been very much interconnected with lands, territories and resources, kinship, patrilineal and matrilineal cross-cousin marriage, faith and deities, customary laws, and various aspect of culture, like the wearing of the *Nhokon cholo* (unique dress). Although TaMhang are rather patriarchal, still *TaMhangsya* control cash and other property, make household decisions and engage in both household work and economic activities outside the house.

Men do most of the outside works, business, jobs, politics and social works. By present standards of gender equality and equity, there is gender discrimination among the TaMhang.

Almost all Ghampa are male, most of the *TaMhangsya* do the cooking and other household chores, marriage by capture was common until the 1950s,¹³ and it used to be mandatory that the second daughter becomes a Jhuma (female Buddhist nun). Marriage by capture and Jhuma tradition have already been eliminated. Today, of the thirteen Ghampa, one is a *TaMhangsya*.

Some TaMhang women argue that it is not important for women to become Ghampa as daughters need to give more time to perform their duties and that it does not matter whether the Ghampa is a male or female because decisions are not made by the Ghampa only but by all community members together with the Ghampa.

¹³ The TaMhang have a customary practice of patrilineal and matrilineal cross cousin marriage. To avoid conflict and manage good relationship with all, marriage by capture was in practice until the early 1950s. One of the male cross cousins would capture one of the female cross cousins when she goes to fetch water or collect fodder outside her home. After a few days, if the bride's family accepts to carry out the *khimi Chuva* ritual, marriage will be accepted, otherwise not.

Customary Self-Government Systems of the TaMhang

Even though over the past centuries Thasang has been part of various larger polities, the participants of the Talking Circle with TaMhang elders held in Kathmandu feel that “We TaMhang have never accepted rule of the outsiders; instead, we have been continuing our self-government systems unabated since time immemorial”. German Scholar Dieter Schuh (1991, p. 1), writes:

During the 17th and 18th centuries western Nepal consisted of numerous political entities which recognized the suzerainty of the king of Jumla. Even the relatively small area of Southern Mustang comprised at least several smaller states, for instance, Thags (the area from Thugche down to the southern border of the present district), sPung-khris (the present day Marpha), Soru-bi (present-day Thini) and Yul kha bcu-gnyis (present-day Barhagaun). It is interesting fact that this fragmentation into small political units paved the way for the development of forms of political state-organization, which seems to be unique even for the rest of Asia.

Schuh (1991, p. 2) has discussed four *bemchang* (written constitution popular in Maitang), and two *rgam-shag* (treaties), the first between Thak and Sombu, and the other, *chod-yig* (treaty), between three countries (*yul-sgo-gsum*): Thag, mThin (Thini) and sPun-gri (Marpha) during or before the 17th century. Clearly, these are evidences of the existence of a sovereign Thasang state in the past. It is proof of the pre-existing right of the TaMhang to self-determination that Nepal government needs to recognize in its constitution, laws and policies.

Grounding Values

The Customary Self-Government Systems of the TaMhang, like those of other Indigenous Peoples of the world, is very much an

interconnected, interrelated and interdependent organic system that is rooted in the society's core values.

The grounding or core values of the TaMhang self-government system include respect to the Mother Earth, the recognition of interdependence and interconnectedness of living and non-living beings, of nature and people, and of nature and culture, respect to *Khe-Mom* (ancestors), respect to the four clan *Lha* (deities) and *Lha Nari Jhyowa*, respect to their ancestral lands, cooperation, solidarity (the obligation to give to others), collective decision making by the community, and restorative justice. The close connection to and respect for their ancestral land and the rootedness in their community and collective identity are reflected in the obligation of all TaMhang who live outside Thasang to return to the ancestral lands) every year and also once in every twelve years in order to participate in various customary ritual activities.

Furthermore, if TaMhang should die anywhere in the world, their *astu* (last remains) should be deposited at the *astu* of their ancestors in the ancestral land. The *Khe Mom* (ancestors) were very farsighted in establishing these rules and traditions that help to keep all community members intact as a collective and sustain it for long.

Source of power: The gods and clan ancestors

The TaMhang derive their power from the four ancestral gods (*Lha*), the god *Lha NariJhyowa*, and the four clan ancestors (*Khe*). The *Lha* and *Khe* give power and authority to the *Hyul Jhompa* (Village Assembly).

Each of the four clans (*Phya*) has its own *Lha*. The four ancestral *Lha* are *Lha Lhangba Nhurbu* of the *Chyogi Phya* (Gauchan in Khas Nepali), *Lha Churing Ghyalmo* of the *Salgi Phya* (Tulachan), *Lha Ghangla Singi Karmo* of the *Dhimjzen Phya* (Sherchan), and *Lha Hyawa Rangiyung* of the *Bhurgi Phya* (Bhattachan). In addition to these four gods, the TaMhang of all clans have great faith in *Lha Nari Jhyowa*.

Lha Yhawa Rangjyung is represented by a real head of a yak and the other three gods, *Lha Langba Nhurbu*, *Lha Chyurin*



Photo 11. *Lha Langba Nhurbu*



Photo 12. *Lha Chyurin Gyalmo*



Photo 13. *Lha Ghangla Singi Karmo*



Photo 14. *Lha Yhawa Rangjyung*

Gyalmo and *Lha Ghangla Singi Karmo* are represented by masks of a dragon, elephant and lion. During *Lha Fewa* festival, members of the *Bhurgi Phya* play a ritual game of deer hunting and the other three *Phya* play a ritual ploughing and sowing in a field. *Lha Lhanba Nhurbu* has the power to control fire and

Table 3. The four ancestral gods of the TaMhang

	Clan (<i>Phya</i>)	Deity (<i>Lha</i>)	Color (<i>Choi</i>)	Direction*	Power (<i>Syuk Taa</i>)	Weapon*
1	Chyogi (Gauchan)	<i>Lha</i> Langba Nhurbu (Dragon)	<i>Ola</i> (Red)	<i>Ser</i> (East)	<i>Me</i> (Fire) <i>Nambar</i> (Wind)	Sword*
2	Salgi (Tulachan)	<i>Lha</i> Chyurin Gyalmo (Elephant)	Cxengku (Green)	<i>Lxo</i> (South)	<i>Kyu</i> (Water)	Axe*
3	Dhimjzen (Sherchan)	<i>Lha</i> Ghangla Singi <i>Karmo</i> (Lion)	<i>Tar</i> (White)	<i>Nxup</i> (West)	<i>Kxin</i> (Snow)	Small hammer*
4	Bhurgi (Bhattachan)	<i>Lha</i> Yhawa Rangjyung (Yak)	<i>Mlaang</i> (Black)	<i>Cxyaang</i> (North)	<i>Sa</i> (Soil)	Pointed spade*

Source: Adapted from Tulachan 2016, p. 8; Bista 2000, p. 90,
Note: *Names in TaMhang Kai not available.

air, *Lha* Chhurin Gyalmo has the power to control water, *Lha* Ghangla Singi Karmo has the power to control snow, and *Lha* Yhawa Rangjyung has the power to control soil, indicating that these gods are related to Bon religion (see details in Table 3).

The *Khimi* rituals: Paying respect to the ancestors

All respondents gathered in the Talking Circle mentioned that ancestors are like living beings who are remembered and respected in their life cycle rituals from the birth to the death and beyond. They further said that in all the activities they do every day, their ancestors are always with them.

The ancestral *Lha* and *Khe-Mom* (male and female ancestors) are closely related to the four *Phya*. The ancestors and the *Khimi* rituals that are held to pay respect to them are the backbone of their customary self-government institution. The CSGSs has been anchored in *Khimi*, without it nothing would remain. There are two main *Khimi* rituals, one *Khimi Chuwa* during fixing of

marriage and the other depositing last remains in ancestral lands. To fix the marriage, the girl's family and *Ghyu* members should perform *Khimi* ritual at girl's parent home.

It is indeed paying respect to ancestors by agreeing to transfer girl's, i.e. would-be bride's, "bone" from their *Ghyu* to bone of the boy's, i.e. would-be groom's, *Ghyu*. *Ghyu* members of the gril accept it by offering *qulaf* (home made hard liquor) and *fee* (home made beer) to ancestors, i.e. *Khe Mom*, and drinking it for rirual prupose. The other *Khimi* is the last remains of the deceased family member that is deposited ta the *Khimi Dhim* in the ancestral lands.

There are four ancient Khe, one each of the four *Phya*. They are *Khe Ani Airam* of Chogi; *Khe Samledhen Samlecyang* of the *Salgi Phya*, *Khe Dakpa Ghelsang* of the *Dhimjzen*, and *Khe Paukuti* of the *Bhurgi* (Tulachan, 2016, p. 8; Vinding, 1998, pp. 64-66). Each of the four *Phya* has its own *Rhap* (clan history), which are recited publicly during the 16 days long *Lha Fewa* festival that is held once in every twelve years.¹⁴ Of these four *Khe*, the first three came together from Jumla via Dolpo, the last came from Tibet and they all met at Thasang. They weighed water, soil and stones and found this place most suitable for habitation.¹⁵

Many TaMhang claim, without any evidence, that they are the offspring of Jumla prince Hansa Raja and Thini Princess Nhima Rani, who are said to have no offspring. Some TaMhang also consider them Khe Mom. Anthropologists believe that this story of Jumla Prince married with the Thini princess has been manufactured to show the caste Hindu (i.e., Thakuri) origin of the TaMhang as a part of the process of Sanskritization with an aim to elevate their social status.

The four ancestors are revered and remembered during the *Lha Fewa* (coming of gods festival every twelve years), the annual Toranglha, as well as during marriage and death rituals. Toranglha is the biggest festival celebrated every year by all the TaMhang, in which the ancestors are invited and fed from the first to the third day by performing the *Khimi Chuwa* ritual at midnight, and farewell is done on the third day.

¹⁴ The most recent *Lha Fewa* was organized from 31 December 2016 to 16 January 2017.

¹⁵ TaMhang elder and expert Omkar Prasad Gauchan is of the view that their ancestors came from Man Sarobar, Tibet to Jumla and to Maitang.

According to the *Chyogi Rhap* (clan history of Chyogi), their *Khe Aini Airam* came from Nhub chan (north west), probably Western Tibet, to Sinja (present Jumla) and fell in a sandalwood tree from which three birds, Lha Lhngba Nhurbu, Lha Churing Gyalmo, and Lha Ghangla Singi Karmo flew. He Left Sinja, Jumla with Khe Samledhen Samlecyang, and Dhakpa Gyalsang, crossed Dolpo and arrived in Maitang. They arrived at Tamo, northern part of Thasang inhabited by Thatan. They met Khe Paukuti at the Ghyatobra, opposite to the Hansara. They were stung by nettle and lost their ...



Photo 15. Public recitation of Rhab during Lha Fewa. [KBB]

way at Ghorepani pass and when they asked a local passerby who came from the Phalante village, “go along the way” was his reply. They returned to Thasang and “examined the water in Kalapani, the soil at Nakhung, and the stones in Narlriledhing”, and “found these to be of excellent quality, and they consequently decided to settle in Thak Khola” (Vinding 1988, p. 179).

During marriage, *Khimi Chuwa* is mandatory. Members of the *Ghyu* (lineage) gather together and the delegation from the groom’s side come with *qulaf* (hard liquor) and *fee* (local beer). If all members of the bride’s *Ghyu* agree with the proposition of the boy, they will accept the liquors and transfer the bride’s lineage to the groom’s lineage. Hence, the ancestors of the TaMhang comprise both the deceased of the male lineage and the female lineage, as well as non-TaMhang who have lived in their families in harmony. Every year, each *Ghyu* carries out ancestral worship called *Khimi Rhamnjen* at the *Khimi Dhim*.



Photo 16. In the past *Astu* used to be deposited at the steep hills and later at the walls in the farm in Lhasa. [KBB]

Khimi Dhim

All deceased family members are considered *Khe Mom*. Generally, *Astu* (pieces of bones of the deceased), are dropped in a hole in a sacred place called *Khimi Dhim* by a son-in-law. Each *Ghyu* has its own *Khimi Dhim*, where the remains of the deceased are deposited.

Almost all the TaMhang deposit their dead ancestors' *Astu* in the *Khimi Dhim* in the villages of Lhasin Shyakpo (Nafrungkot), Lhasa (Khanti), or Nambarjhong (Kopang). Only few have their



Photo 17. *Khimi Dhim* of *Micchin Ghyu* at the forest in Lhasa. [KBB]

they asked a local passerby who came from the Phalante village, “go along the way” was his reply. They returned to Thasang and “examined the water in Kalapani, the soil at Nakhung, and the stones in Narlriledhing”, and “found these to be of excellent quality, and they consequently decided to settle in Thak Khola” (Vinidng 1988, p. 179).

Khimi Dhim in other *Hyul*. In the past, these places were at cliffs in the east of the villages of Lhasin Shyakpo, Nambarjhong and Lhasa. Later these were moved to the stone walls in the farms of these villages, and today they are in the forest or farm in these and other villages.

When depositing the last remains, they differentiate between TaMhang and non-TaMhang. If the deceased is a TaMhang the remains are dropped in one hole but if the deceased is a non-TaMhang, they would be dropped in a separate hole. Some *Ghyu* use one hole for the TaMhang, another for non-TaMhang family members and still another for those who have lived with them. Participants of the talking circles said that it may look like



Photo 18. Depositing an *Astu* in a *Khimi Dhim* at Chantafulung. [TG]

discrimination but it is a must for survival of the TaMhang as a distinct Indigenous Peoples.

Structure of the Customary Self-Government System

Hyul Jhompa

That *Hyul Jhompa*, the annual collective meeting representing all the households of a *Hyul*, is the sovereign and most powerful body of the TaMhang customary self-government system. *Hyul Jhompa* is the key agent that constitutes and reproduces all the institutions over time. The *Hyul Jhompa* exercises powers emanating from



Photo 19. *Khimi Dhim* at the edge of a farm in Lhasa. [KBB]

their ancestors. This is the final authority to make decisions that affect their everyday life. *Hyul Jhompa* exercises full authority to mete out punishment to all, including Ghampa (village leader) and other leaders, if so decided. Unlike in a modern state, there are no special immunities to Ghampa associated with their position and authority. All individuals, both women and men, assembled in the *Hyul Jhompa* have opportunities to express their opinions. This stands in sharp contrast to electoral practices in the State of Nepal and elsewhere, where nominations are not done by people themselves but by political parties.

In the TaMhang community, all elected leaders are fully accountable to the *Hyul Jhompa*. For example, one of the respondents, who is a member of the Ghundal (working group to assist the Ghampa), said that both leaders and community



Photo 20. An extraordinary *Hyul Jhomba* to discuss an urgent matter in progress in the small village of Nambarjhong.

members perform their duties well, otherwise they have to face the next *Hyul Jhomba* where they have to answer any complaint about them satisfactorily. *Hyul Jhomba* may punish the wrongdoers in cash and/or kind.

According to the TaMhang tradition, each of the thirteen *Hyul* elects in its *Hyul Jompha* three authorities:

1. The community leader, called Ghampa or *Hyul Ghampa* (in Khas Nepali Mukhiya; head person in English). Ghampa is the main leader of the *Hyul*.
2. The Working Group to assist Ghampa, called Ghundal, also known as *Thini/Thiye/Thimi*.¹⁶ Ghundal is the name of the working group as well as the name of the members

¹⁶ Chhetri (1987/1988) has used three Thakali names to refer to ...

... the person who, in his words, “probably looked after economic related matters”, namely, “*Thiye*” and “*Thini*” on page 274 and “*Thimi*” in page 284. No other authors have used this Thakali term in their works. After consultation with the Thakali elders during fieldwork in Kathmandu, of the three words, the correct Thakali word is “*Thimi*”.

of the group. It is mandatory for each household of the *Hyul* to work as a member of the Ghundal in rotation. Every year, a new Ghundal team is selected during the *Hyul Jhompā*.

3. Chowa (Katuwal) is a messenger whose main duty is to pass messages from the *Ghampa* to each household.

Customary leaders: the Ghampa

Each *Hyul* has Ghampa, *i.e.*, customary leaders, of which there are three types: the Ghampa (or *Hyul Ghampa*), the *Phya Ghampa* and the *Ghyu Thalo*.

Ghampa/Hyul Ghampa

There are thirteen Ghampa, one each in the thirteen *Hyul*. As mentioned, the *Hyul Jhompā* is the sovereign body that selects *Hyul Ghampa* as the village community leader. Generally, community members try to find out their trustworthy elder, who is very familiar with their situations and is willing to listen to all, consult all community members and make collective decisions. Ghampa is the main leader who often is a male, and rarely a woman. The Chief District Officer (CDO) and other local government authorities do not use the term Ghampa; instead, they address them as ‘gentleman’ or ‘leader’ in order not to give legal recognition to the customary institution of the Ghampa that is not recognized by the laws of Nepal (Bhattachan and Limbu, 2018).

During the annual *Hyul Jhompā*, the community members select their Ghampa for a period of three years, and Ghundal for a period of one year. Each member has the right to be a Ghundal by taking turn; no one can be denied their turn. Serving as Ghundal is also an obligation of each member of the community, as part of the principle established by ancestors to govern and be governed in the community.

The election process is democratic and participatory, because the process of nomination and selection of Ghampa, Ghundal and other positions are done collectively. In practice, the Ghampa



Photo 21. Ghampa from different *Hyul* participating in a program in Sanamchhong. [KBB]



Photo 22. The Chief Ghampa (Mir Muhiya) speaking at a meeting of the Central Committee of ThaSeSa and Ghampa about *Lha Fewa* organized at Nambarjhong. [KBB]

is selected and re-selected for a long time, but other leaders, including Ghundals, are taking turn.

The *Hyul Jhompa* has full authority to select and depose leaders and punish those found guilty of wrongdoings. Leaders themselves are never exempted from punishment. Just like TaMhang and non-TaMhang are equally performing their last rites, including putting *astu* in a designated place, there is no discrimination with regards to participation in *Hyul Jhompa*.

Phya Ghampa and Ghyu Thalo

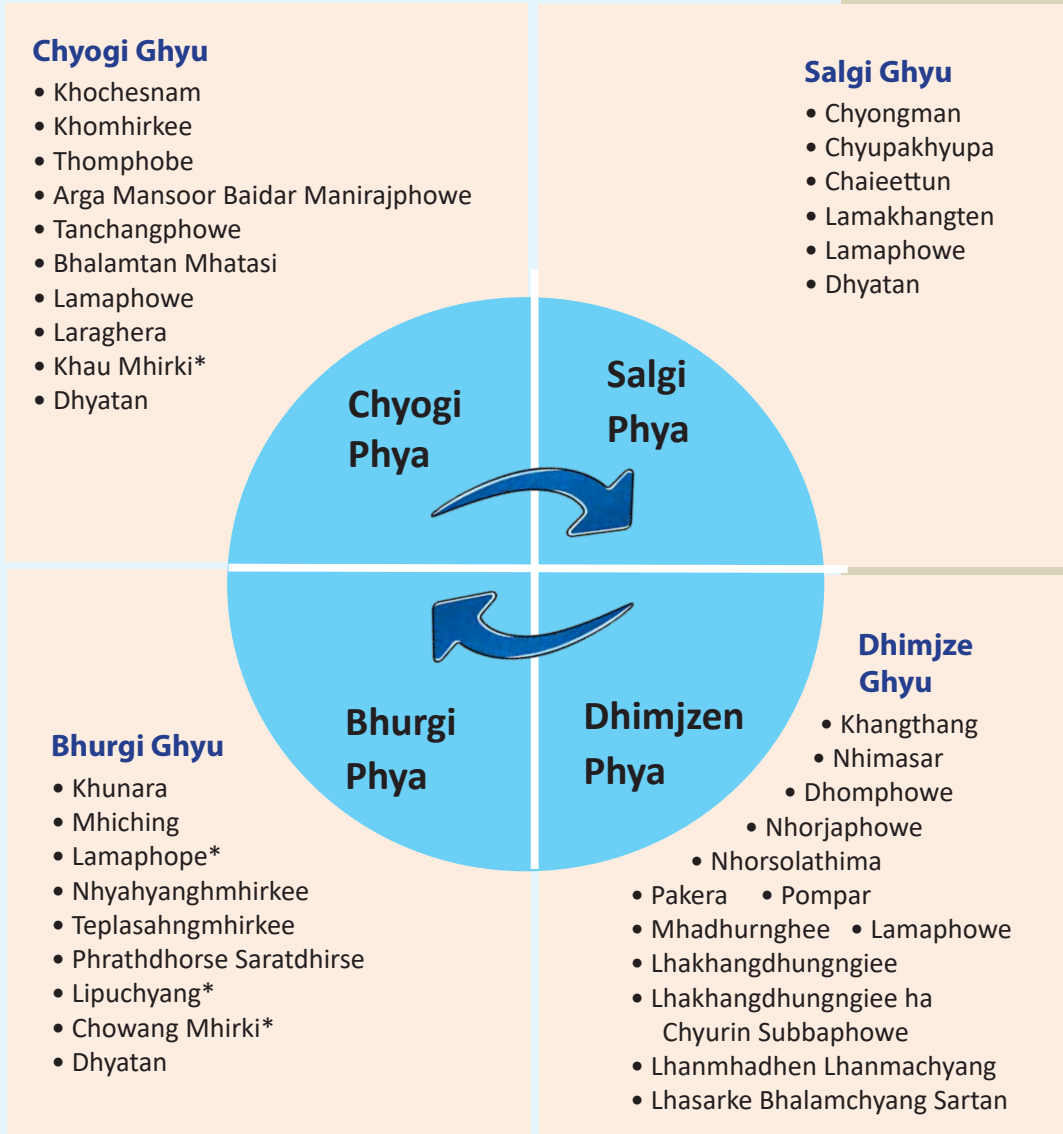
TaMhang are divided into four *Phya*, and the four *Phya* are further divided into forty *Ghyu*: ten from the Chyogi *Phya*, six from the Salgi, fifteen from the Dhimjzen and nine from the Bhurgi (Table 4). Each *Ghyu* has a leader, called *Thalo*. Hence, there are forty *Thalo* in total. The *Ghyu Thalo* are selected with unanimous decision by assemblies of all family members of the *Ghyu*, both male and females. In such selections, they give priority to elders or knowledgeable members and those who have time and are willing to work. All the *Ghyu Thalo* of a clan assemble and select their *Phya Ghampa*, the head of the clan.

The *Hyul* working group: Ghundal

Working groups, called Ghundal are selected every year in rotation among the *Dhim* (household) during *Hyul Jhompa* held in June-July. It is mandatory for all the members of the *Dhim* to serve as Ghundal. Ghundal are selected from those members who are interested to become a member of the Ghundal, and if none is interested, they are selected by lottery. Those who have already served as Ghundal will have to wait for the cycle to end and may work again in the next cycle. As the number of TaMhang residents in Thasang is declining, non-TaMhang are also mandatorily selected as Ghundal. The Ghundal is responsible for carrying out activities, both routine and urgent. Bhattachan and Limbu (2018, p. 22) write,

Ghundals' responsibility includes assembling materials needed such as the sacrificial lambs during the 12-year *Lha Fewa*

Chart 1. *Ghyu* of the Four *Phya*



Source: ThaSeSa, 2017; Bhattachan and Limbu, 2020.

Note: *Ghyu* in asterisk (*) were added during the validation workshop held in Thasang in May 2022.



Photo 23.
A local Dhunba performing the annual ritual of *Lha Chyowa* at a *Khimi Dhim* in Lhasa.
[KBB]

festival, to carry out community worship such as *Bhume Puja* (land worship), *Phalo*, and *Lha Fewa*. During the annual *Phalo* festival, Ghundals work for five days, and at least for 9 days during the 12-year *Lha Fewa* festival. They bring *Phalo* (initiation ritual) materials from the Ghampa's home and prepare food for all the participants. Ghundal are of the view that they have never felt that Ghampa has done any injustice and has done nothing that hampers others; all *Hyul* members live in harmony. The respondents attest that they prefer the CSGS of TaMhang (Thakali).

The institution of the Ghundal contributes to making the TaMhang customary governance system highly participatory, democratic and accountable as each and every household feels being part and parcel of it.

The village messenger: Chowa

The Chowa (Tameldar or Katuwal in Khas Nepali language) is a



Photo 24. Dhom performing a *Lha Chyowa* ritual in Kathmandu. [KBB]

messenger whose main duty is to pass message from the *Ghampa* to each household (Chhetri, 1987/1988). Members of the In the past, community members belonging to the Dhuli (Tailor) and Kami (Blacksmith) castes¹⁷ were given the responsibility of Chowa. The Chowa visited each settlement in the *Hyul*, shout out the message so that community members who are around could hear the message. If the meeting is mandatory for each household, the *Chowa* visits each household to give the message. In the past, the *Chowa* was required to bring a unique symbol from east, west, north, and south of the *Hyul* to prove that he has visited and reached out to all the households. According to the participants in the report validation meeting in Thasang, today there is no separate appointment of a Chowa anymore. Instead, the Ghundal is responsible for passing message to all households.

Special roles and positions in the community

Any citizen of a TaMhang community is called *Hyul-Mhi* (which

¹⁷ *Dhuli* (Damai) and *Kami* (Kami) are Hill Hindu traditionally treated by the Hindus as untouchables. As *Dhuli* and *Kami* speak TaMahnga Kai and have been living in Thasang for generations, they are called TaMhang Dhuli and TaMhang Kami, but ...

... are not considered as belonging to the TaMhang. As TaMhang is an egalitarian society, they do not practice caste-based discrimination and do not treat them as untouchable. Unfortunately, a few Hinduized TaMhang now practice caste-based discrimination.



Photo 25. A former Lama of *Sauru Gumba*, from Khumtisa, performing a death ritual of the 49th day in his private *gumba* at *Swambhu* in Kathmandu. [KBB]

means ‘villager’). However, there are a number of community members who perform special roles or hold special positions in the community. These comprise the following:

- ***Mhidhen Myurba***: The *Mhidhen Myurba* (respected gentlemen, Bhaladmi in Khas Nepali) are respected community members whose advice is often welcomed by the Ghampa and community members.

- **Umin:** Elders, including adult women, are called *Umin* and are respected by the community.
- **Panre:** Each of the four *Phya* has a Panre (priest) who is responsible for taking care of their respective gods.
- **Dhom:** Dhom (*Jhankri* in Khas Nepali) are the traditional religious priests responsible for performing life-cycle rituals, in particular the death rituals.
- **Dhunba:** Dhunba are religious priests for followers of the Bon religious tradition.
- **Lama Jhoyma:** Lama (monk) and Jhoyma (nun) officiate Buddhist religious rituals.
- **Hyul-Mhi:**¹⁸ *Hyul-Mhi* (villager) are citizen. who have right to hold positions, including Ghampa.
- **Jhat Kuriya**¹⁹ (Khas Nepali term meaning “main household”): *Jhat Kuriya* refers to households who have both a house and land in the *Hyul* (see Vinding, 1998, p. 272). They can be TaMhang or members of castes and other ethnic groups. However, only the TaMhang *Jhat Kuriya* have the right to become the *Hyul* Ghampa. A Marphali Thakali elected as Ghampa by the people of *Hansara* village (*Dhuche*) was outright rejected by all the other Ghampa. Therefore, a new Ghampa was elected in *Hansara* recently.

Phelauriye-Mhi (Alien)

Phelauriye-Mhi are non-TaMhang members of a *Hyul*. There are four types of aliens:

- **Fat Dhim:** Out-migrant TaMhang who return to Thasang, and any non-TaMhang who has lived in Thasang for five or more years can apply for the recognition as *Fat Dhim* (*Fadke Kuriya* in Khas Nepali)²⁰ by presenting a bottle of *Qulaf* (hard liquor) to the Ghampa. *Fat Dhim* who leave

¹⁸ Schuh (1991, p. 2) has used *yul-mi* to refer to citizens.

¹⁹ According to Sat Prasad Gauchan, Ghampa of *Chantafulung (Tin)* said that the main households are called *Nhang Dhim* (“Insider house”), but the participants of the validation workshop said that *Jhat Kuriya* is the correct term.

²⁰ Vinding (1998, p. 272) writes, “...non-members are referred to a *padkea*”. Gauchan (2015, p. 57) writes, “*Fatke*: those *Janjati* who have been living since the time of grandfathers” (Translation from Khas Nepali to English by the author).

Thasang before living there for five years have to pay a fine of 5,000 Nepalese Rupees (38 USD). In principle, *Fat Kuriya* have no right to become *Hyul Ghampa* and *Ghundal*. However, due to the small number of TaMhang households, the *Fat Kuriya* in Khumtisa (Nakung) village are allowed to become Ghundal.

- **Aarangse Karanse:** People who live in Thasang to make their living but do not own land and a house are Aarangse Karanse (meaning slaves – also called Kamara Kamarai - or domestic workers). They have no right to hold positions like *Hyul Ghampa* and Ghundal.
- **Mhila:** They are temporary migrant laborers in Thasang. They are not eligible to hold any positions.
- **TaMhang Dhuli and TaMhang Kami:** These are the Hill Dalit belonging to the Damai (Tailor) and Kami (Blacksmith) castes. They are an integral part of TaMhang communities. They have lived in Thasang for generations. TaMhang Dhuli specialize in stitching *Nhkon Cholo* (customary dress of TaMhangysa), and TaMhang Kami specialize in making tools and other utensils. They are allowed to become Ghundal and take other responsibilities, except that of *Hyul Ghampa*.

Functions of the Customary Self Government Systems

Although Nepal's constitution and laws do not give legal status to, or state recognition of CSGSs, the practice so far has been not to interfere with its functioning. If the State, especially the Rural Municipality, District Coordination Committee (DCC), Chief District Officer (CDO), district level line agencies, or outsiders, including Non-Governmental Organizations (NGOs), private sector and international development partners, wish to implement any plans and programs in Thasang, they consult with and get full cooperation of the Ghampa. They generally do not go against the wish of the community members. Hence, even though there is no *de jure* recognition, there is *de facto* recognition of CSGSs.

In the past, even though Nepal has been under authoritarian regimes, such as those of the Rana rule (1854-1950) or the 30 years of autocratic Panchayat rule (1959/60 to 1990), and even though there was no commitment yet to protect Indigenous Peoples' rights, there was little external intervention from the state in the functioning of TaMhang CSGSs. This was mainly because of poor transport and communication infrastructure, and a weak political-administrative system. It is an irony that it was after re-establishment of democracy in 1990 and after the ratification of ILO Convention No. 169 and the adoption of the UNDRIP that many functions of TaMhang CSGSs have been taken away or weakened by government intervention.

The main functions of TaMhang CSGSs are as follows:

Management of religious works

According to Bhattachan and Limbu (2020), this is the only function, which has been left untouched by the State. Ghampa, Ghundal, Panre and all community members carry out the management of *Lha Fewa* every twelve-years, the Phalo (Kumar Yatra in Khas Nepali) every year, and take care of the *Narsang gumba* (monastery) located in Lhasa (Khanti).

In the past, young TaMhang boys under thirteen years of age living in Hansara (Dhuche), Lhasa (Khanti), Sauru, Nambarjhong (Kopang), Sanamchhong (Narchhong), Kgumtisa (Nakung) and Lhasin Shyakpo (Narkhung) have undergone collective initiation rituals. Now this ritual is open to all young TaMhang boys who live in Thasang and elsewhere. Although the ritual continues, the number of boys who participate in it is dwindling due to several factors, including migration. Due to lack of local financial resources the ThaSeSa provides financial support to thirteen Ghampa for organizing periodic religious rituals and festivals.

In addition to *Lha Fewa* and Phalo, each *Ghyu* must organize *Khimi Rhamjen* at their respective *Khimi Dhim* every year. Seven Dhom, two Dhunba and seven Lama do all rituals, including marriage and death. These customary institutions and practices still bind all TaMhang together.



Photo 26. *Lha Fewa* festival at Sanamchhong. [KBB]

Justice delivery

Another main function of the customary self-government system is to deliver justice. In spite of the presence of police posts in Thasang and the district court in Jomsom, community members rarely use these government services as all of them still have full faith in the customary self-government system. The customary justice system is effective in preventing criminal behaviors as both wrongdoers and victims as well as the Ghampa live in the same village, and the wrongdoers are asked to apologize publicly and not to repeat the crime.

Before 1950, the Rana rulers had introduced various central-government appointed local administrators, such as Budha, Thalu, Amali, and Subba, which don't exist anymore in Thasang and



Photo 27. Ploughing ritual during *Lha Fewa* at Sanamchhong. [KBB]

elsewhere in Maitang. The Rana rulers allowed Ghampa to make all judicial decisions except for with regards to *Panch Khat* (five heinous crimes), i.e., homicide of Brahmin, homicide of women, cow slaughter, infanticide, and illicit relations (Chhetri, 1987/1988). The participants of the Talking circle in Thasang and Ghampa interviewed as key informants said that they do not deal with such cases any more.

Today, as the TaMhang are gradually outnumbered by non-TaMhang community members, as the number of tourists is growing, and the State's local government administration is gradually increasing its power and authority, some community members prefer to go to the nearby police post, District Administration Office (DAO) and District Court to seek justice.

Such rising practices threaten to erode the function of customary self-government systems.

Yet even now, the villagers are solving most of their problem by themselves. They do not report to the police, CDO, or file a case at the district court, as they are fully aware that they cannot and should not bypass their Ghampa. According Bhattachan and Limbu (2020, p. 19),

The Kobang Police Post was established in 1990 and since then only 47 cases ... were registered in the last 27 years. About half of the 47 cases are related to three recurring cases: misbehavior by drunken people (19.15%), slandering (19.15%) and manhandling (17.02%) Other less occurring cases are road accidents, loan/debt/lending, lost and found, and public disturbance. Isolated cases are related to attempted suicide, domestic violence (rape), family dispute, parental custody, hooliganism, land encroachment, misuse of cash and kind, and unpaid wages”

... Similarly, in the District Court that was established in 1990, registered cases are only 10 in a year, as reported by the *Srestedar* (Registrar). The only case registered in the Mustang [Maitang] District Court from Thasang was related to sexual abuse of a child by a Dalit living in Kobang in Thasang”

Public service works

Public service works are another customary function of the Ghampa. The Ghampa mobilizes community members through Ghundal for Jhara (labor contribution by community members) for drinking water, protection of crops from animals, irrigation, river bank protection, and maintenance of trails and monasteries. Those who fail to contribute have to pay a cash fine.

Resource management and tax collection

Ghampa and Ghundal manage the *Hyul* resources in two ways: by following customary or new rules and regulations for sustainable and beneficial resource use, and via taxation. Any new rules and regulations introduced by Ghampa must be endorsed by the *Hyul*

Jhomba. Among these rules are those regarding the management of pasture land and forests, as described below.²¹

- **Danfe Charan** (pasture land): Danfe Charan (Bukyan in Khas Nepali) refers to three main types of pastures, namely *Marche* Bukyan, *Mooli* Bukyan, and *Fache* Bukyan (cf. *Gauchan* 2015, p. 67), over which TaMhang have collective ownership and collective management rights since times immemorial. Shepherds from the district of Myagdi and other neighboring villages bring their sheep from mid-June to mid-January (*Gauchan* 2015: 67). These herders pay the following taxes for using the pastures for more than one day:
 - *Kaamasara*: Each yak and/or sheep herder pays one young lamb to the community.
 - *Nasari*: If two or more herders should merge their small herd with another big herd, those small herders would pay one young lamb to the community. This is called *Nasari*. Thus, each of the thirteen *Hyul* would receive one young lamb each, the remaining lambs are sold and money deposited to the community fund of the thirteen Ghampa.
 - *Syafal/Kharchari/Jhol Piyaune*: It is a tax of 25 Nepalese Rupees paid by each yak or shepherd.
 - *Banyaula*: When the herd returns to their owners' villages after winter, they pay a tax known as *Banyaula* (Khunara-Bhattachan, 2013, p. 94).

These taxes are still in practice today. According to Khunara-Bhattachan (2013, p. 95), "... system of collection of *Syafal*, *Kharchari*, *Banyaula*, *Kaamasara* and *Nasari* taxes have helped to maintain dominance in the forest and pasture lands." She added that these taxes contributed to economic sustainability.

- **Dhong** (Maachhi Charan in Khas Nepali): Forest adjacent

²¹ Based on information by Khunara-Bhattachan (2013) and Gauchan (2015), which was validated by respondents, especially the Ghampa and TaMhang intellectuals.

to the *Hyul* settlement is directly administered by the Ghampa. The Ghampa schedules specific dates and time for *San Korne*, the collection of fallen leaves and dried conifer needles that are considered of high value for agriculture in mountain areas like Maitang, for the collection of wild plant and animal foods, firewood, timber for house construction, and fodder for animals. Today, the Ghampas still continue to carry out these tasks, but after the establishment of Annapurna Conservation Area Project, they do so under its supervision. The management of firewood, timber for house construction, and fodder for animals has been taken away by the ACAP.

Self-help rotating credit associations

Customary rotating-credit association called *Dhukor* or *Dhikuri* (Chhetri, 1996) are still in practice. Whenever a TaMhang needs money to start a business to make a living, his or her close relatives create a *Dhikuri*. Each member contributes a certain amount of money based on the total amount required and the number of members. The money collected at the beginning is given to the one for whom it was created and the needy ones get in the subsequent turns. When the last member gets the money, the *Dhikuri* automatically ends.

In such customary practices, no members would cheat as they are close relatives and they all know each other very well. Many non-Indigenous Peoples have adopted its improvised version as *Dhukuti* and its members are not from among relatives but friends and other people. They often collect large amounts of money and those members who get it in the beginning often do not repay leading other members to go to the police station for help. Hence, the government has criminalized *Dhukuti* that includes the *Dhikuri* of the TaMhang.

Customary Self-Government and the State

5

Until 2007, Nepal was a unitary, highly centralized Hindu state. Democracy was established in 1951 that lasted until 1959 and was regained after 1990. In 2015, the Constitution was passed by the second Constituent Assembly in spite of strong street protests from Madhesi and Indigenous Peoples' movements, who demanded an ethnic-based federal system.

Since then, Nepal is a federal democratic republic divided into seven provinces. The local level government is divided into 77 districts and 753 local government units that include 6 metropolis, 11 sub-metropolis, 276 municipalities, and 460 rural municipalities, and under these 6,743 wards.

Elections are held every five years for federal parliament (House of Representatives and National Assembly) and provincial parliaments. Election systems for both federal and provincial parliaments include first-past-the-post, proportional election, and nominations by the government.

Although the constitution has divided power and authority of federal, provincial and local governments, power is still highly centralized. Provincial governments do not have much power and authority. Local governments have some power and authority in selected areas. The Chief District Office controlled by the federal government is more powerful than the provincial government and the latter have difficulty in working parallel with the former. Provincial courts are functioning but the Supreme Court is the most powerful.

For development activities, the National Planning Commission (NPC) and Provincial Planning Commission have been established, but the central NPC controls all development activities. There is no self-determined development for Indigenous Peoples. No Free, Prior and Informed Consent (FPIC) is taken

from Indigenous Peoples as required by the UNDRIP. In periodic plans and annual budgets no specific budget is allocated targeting Indigenous Peoples. The government provides nominal money to the National Foundation for Development of Indigenous Nationalities (NFDIN) but the money allocated is only enough for paying salaries of its staff and doing a few nominal research works and publications.

Key features of the constitution

Although the people's sovereign right and right to autonomy and self-rule are mentioned in the Preamble of the Constitution, none of these apply to Indigenous Peoples and these are related more to delegation and/or decentralization of power and authority of the federal government. Hence, there is no autonomy with self-rule either of the provinces and local bodies, or of Indigenous Peoples.

Although a commitment is made in the Preamble of the Constitution to ensure economic equality, prosperity and social justice by eliminating discrimination based on class, caste, region, language, religion and gender and all forms of caste-based untouchability, these exist only on paper.

Nepal is supposed to be a secular state with "religious, cultural freedoms" but these are compromised and limited by a provision which refers to "protection of religion, culture handed down from the time immemorial", implying continuation of domination of Hindu religion (Article 4.1). So, in essence, the Constitution favors Hindu religion.

Khas Nepali language in the Devnagari script is the official language of Nepal (Article 7.1). Provincial laws can determine one or more languages of the nation spoken by a majority of people within the province as its official language(s), in addition to the Nepali language (Article 7.2).

Most of Indigenous Peoples' languages would still be discriminated, and many languages would not be given the status of official languages as the populations of these language speakers are not a majority in the respective province.

The paragraphs on fundamental rights and duties in the Constitution contain no provision on rights of Indigenous Peoples. There is a provision “to make the indigenous nationalities participate in decisions concerning that community by making special provisions for opportunities and benefits in order to ensure the right of these nationalities to live with dignity, along with their identity, and protect and promote traditional knowledge, skill, culture, social tradition and experience of the indigenous nationalities and local communities” (Article 51 (j)(8)).

However, the constitutional provision that no question can be raised in the court about implementation of State policies, makes it likely that this provision may not be implemented for various reasons.

The structure of the State

Article 56.1 defines the three main structures of the Federal Democratic Republic of Nepal, the Federation, the Province and the Local Level, but it does not refer to and recognize customary self-government of Indigenous Peoples.

According to Article 56.5, “Special, protected and autonomous regions may be created for socio-cultural protection or economic development according to Federal law”. This is mainly for Indigenous Peoples. It should be noted that autonomous areas were recommended for 23 Indigenous Peoples by the State Restructuring and State Power Division committee of the first Constituent Assembly (2008-2012), which was however ignored when the Constitution was finalized.

Legislature is bicameral, comprising the National Assembly and the House of Representatives. The 59 members of the National Assembly are elected by single transferable vote and first-past-the-post vote. The House of Representatives has 275 members, of which 165 members are elected through the first-past-the-post electoral system, and 110 members are elected through the proportional electoral system in which voters vote for political parties (Article 84.1). In doing so, representation is supposed to be ensured on the basis of a closed list²² also for

²² The party submits a list to the National Election Commission and it cannot be changed after its submission. If a party wins 10 seats, for example, candidates from 1 to 10 are declared elected.

women, Dalit, Indigenous Peoples, Khas Arya, Madhesi, Tharu,²³ Muslims and backward regions based on their population size. The “Khas Arya”, according to the Constitution of Nepal 2015, refers to Kshetri, Brahmin, Thakuri, Sanyasi (Dashnami), which belong to the Hill Hindu caste groups.

There is no provision of direct representation of Indigenous Peoples through their own chosen selection process as per UNDRIP, and it is a racist constitution as it identifies who are Khas Arya but fails to identify who are Indigenous Peoples, although the NEFDIN Act had identified 59 indigenous nationalities already in 2002.

The Constitution provides for the creation of the Supreme Court, High Courts and District Courts (Article 127), but there is no recognition to prevailing customary judicial administration systems of Indigenous Peoples.

Indigenous Peoples’ representation

According to Article 176 of the Constitution, “(1) Each State Assembly shall consist of Members in a number that is twice as many as the number of members elected to the House of Representatives from the concerned State, through the first-past-the-post electoral system”.

The number of members to be set under clause (a) “shall be considered to be sixty percent, and the rest forty percent members to be elected, through the proportional electoral system.”

“Sixty percent of the members of the State Assembly shall be elected in accordance with the first-past-the-post electoral system and the forty percent members in accordance with the proportional electoral system.” The proportional system allows Indigenous Peoples to get elected to the parliament but the political parties give tickets only to those Indigenous Peoples who fully comply with their respective party policies.

The Constitution provides that “The executive power of the Local Level shall, pursuant to this Constitution and the Federal law, be vested in the Village Executive or the Municipal Executive” (Article 214.1), and the “District Assembly shall

²³ Although the Tharu belong to Indigenous Peoples, the government has identified them separately because of the pressure from a strong movement by the Tharu demanding for securing their rights.

make coordination between the Village Bodies and Municipalities within the district” (Article 220.1). The legislative power of the Local Level is vested in the Village Assembly and the Municipal Assembly (221.1). This provision is important for those Indigenous Peoples who have large populations in the villages and where the elected leaders therefore have the opportunity to ensure rights of Indigenous Peoples as they are the one who make decisions.

Furthermore, “(1) Each Village Body shall have a Village Assembly. (2) A Village Assembly under clause (1) shall consist of the Chairperson and Vice-Chairperson of the Village Executive, Ward Chairpersons, and four members elected from each ward and Members of the Village Executive elected from Dalit and minority communities pursuant to clause (4) of Article 215” (Article 222). There is no provision for representation of Indigenous Peoples.

Furthermore, article 221.1 states that “(1) The legislative powers of the Local Level shall be vested in the Village Assembly and the Municipal Assembly”.

The local body is powerful, and Indigenous Peoples have an opportunity to enjoy their rights in those local bodies where they are most numerous and the customary self-government system is still strong, such as in the Upper Maitang, or where the population of Indigenous Peoples are decreasing but their customary self-government system is still strong, such as in Thasang/Thag.

However, as the local body leaders and officials strictly abide by the government policy and also their respective party policy, they do not take risks by promoting Indigenous Peoples’ rights and interests if this is going against these policies.

There are two commissions for Indigenous Peoples, one is the Indigenous Nationalities Commission of Nepal (Article 261.1) and the other is the Tharu Commission. However, both have no judicial authority.

According to the Article 287(6), the Language Commission will determine the criteria to be fulfilled for the recognition of the official language and make recommendations on languages to the Government of Nepal.

Laws and development planning

With the passing of the new Constitution, there is a need to amend some of the laws to bring them in line with the Constitution, or pass new legislation.

In 2017, the Criminal (Code) Act, Criminal Procedure (Code) Act, Civil (Code) Act, Civil Procedure (Code) Act were passed and went into effect from 17 August 2018.²⁴ Regarding the amendment of existing laws, the International Institute of Democracy and Electoral Assistance (IDEA), on 6 December 2018, wrote,

In a landmark move, the Government of Nepal has registered a new bill for amendments contradicting with the constitutional provisions. The government has put forward the proposal to amend 56 laws that are against the constitutional rules promulgated in 2015. According to the spokesperson of the Ministry of Law Justice and Parliamentary Affairs, Dhanraj Gyawali, the government has also sent a proposal to the Cabinet regarding another bill that calls for amendment of more than 110 existing laws.”²⁵

All these enacted laws and proposed bills are not in line with the UNDRIP, ILO Convention No. 169, and the Outcome Document of the World Conference on Indigenous Peoples 2014, and no FPIC of Indigenous Peoples were obtained by the State during proposing, making, amending or passing these laws.

Finally, development planning is also still highly centralized in Nepal. The periodic plans developed by the National Planning Commission of Nepal have discontinued targeted plans and programs for Indigenous Peoples.

Commonalities and differences between the State and Tamhang Customary Justice Systems

Bhattachan and Limbu (2020) have identified commonalities and differences between the State and customary justice systems. The main commonalities are that both have justice delivery authorities, jurisdiction, and laws. However, the differences are that the state judicial structure is laid by State organs and Court, have building

²⁴ <http://therisingnepal.org.np/news/25251>

²⁵ <http://constitutionnet.org/news/nepal-plans-bulk-amendments-110-existing-laws-meet-constitutional-deadlines>



Photo 28. Typical TaMhang houses. [RKS]

and infrastructure, written laws, centralized, hierarchical, discriminatory, exclusionary and fully state controlled (see Table 7 in Bhattachan and Limbu, 2020, p. 47). Conversely, TaMhang's customary judicial structure is laid by the community with no infrastructure, and it is dynamic, non-discriminatory, inclusive, egalitarian, community based, voluntary and fully controlled by the community.

Judicial function and structure of both systems also have some commonalities and differences. Commonalities include that both have their own rules and procedures, adjudication, and selection process. The State judicial functions and procedures are highly technical and bureaucratic, are written, with limited access of information, is mostly in Khas Nepali language as an official and working language, often culturally inappropriate, without

sanction against judges unless in the case of impeachment, and they are defined by the State (Table 8, in Bhattachan and Limbu, 2020, pp. 49-50).

In sharp contrast, customary judicial functions and procedures in customary law are developed in common experience, there is wider access of information, customary law is mostly unwritten but some are codified, Tamhang Kai and Khas Nepali languages are used as needed, judicial functions and procedures are culturally appropriate, defined by the community, and are accountable to the community. Further, the community holds the right to impose sanction against Ghampa.

Further, Bhattachan and Limbu (2020) have identified differences in justice delivery by customary and the State justice delivery system (see Table 9 in Bhattachan and Limbu, 2020, p. 73). In the State judicial system, justice delivery is primarily retributive and reconciliation is secondary. Justice delivery is time consuming, expensive, solely in the responsibility of the State.

Implementation of the decisions are weak, based on positive law, carried out by the Court and State macheneries, and the primary concerns are those of the disputing parties and the court only.

In sharp contrast, customary justice delivery is primarily reconciliatory, fully restorative, timely, with nominal cost, and it is the responsibility of the community, based on customary law that makes it effective. The community as a whole carries out implementation of decisions, and the concern of all members of the community are fully addressed.

Democracy, human rights and self-government

The main political parties, such as the Communist Party of Nepal and the Nepali Congress, and most of the people belonging to the dominant caste are against autonomy and self-government of Indigenous Peoples.

They argue that there can be no parallel state or government other than federal, provincial and local governments as per the Constitution of Nepal of 2015. For them, customary self-

governments are feudal, undemocratic, and go against the human rights of Nepalese people who do not belong to indigenous communities and thus would have no right to participate in them.

However, in TaMhang society basic human rights and fundamental freedom, such as the right to life, right to food and shelter, right to family and child, gender equity and equality are fully protected by the customary government systems, which also uphold democratic values like rule of law, transparency, accountability along with the principle of restorative justice and sustainable use of natural resources.

A recent study on customary justice systems of the TaMhang revealed that customary government systems are highly participatory, inclusive and democratic. According to Bhattachan and Limbu (2020, p. 64), “Each community member works like informed citizens, lawyers/advocates, and judges.” They have a highly participatory process where they all make collective decisions that are implemented collectively.

The TaMhang differentiate between community members and outsiders but allow the latter to participate in all aspects of their collective way of life with some restrictions, such as to become a *Ghapma*, or to participate as *Kumar* (boys undergoing initiation rites) during Phalo. Also, they differentiate between TaMhang and non-TaMhang family members as they have a separate place to put *Astu* of mixed blood family members.

In the present-day context it looks undemocratic and discriminatory, but the participants of the Talking Circle said that it is not so because these distinctions are directly related to the survival of TaMhang as a collective. They argued that making this distinction is democratic because they do not exclude non-TaMhang family members and others who have lived with the family, but that putting *Astu* in a separate *Khimi Dhim* discourages marriage of TaMhang with non-TaMhang. In the talking circle, participants noted that non-TaMhang elder son-in-laws are not eligible to get *Mhatung*. These customary practices are meant to encourage marriage among themselves for their own ethnic survival.

Also, since so far only one woman has become a Ghampa and generally the positions are held by TaMhang men, this could be considered discriminatory and undemocratic. However, since the position of Ghampa is open to both men and women, and men take such responsibility for all practical purpose with consent from women, this is not the case.

With rising numbers of non-TaMhang residents and declining numbers of TaMhang living in Thasang, most of the non-TaMhang comply with customary practices of TaMhang CSGSs.

However, nowadays, a few non-TaMhang community members, for example, in Tukuche, are unhappy with TaMhang's decision not to accept non-TaMhang as Ghampas.

TaMhang elders, leaders and intellectuals argue that if they should accept non-TaMhang as Ghampa, TaMhang customary self-government systems would be dead.

Main Factors of Change in Customary Self-Government Systems

6

There are many factors responsible for changes of customary self-government systems among the TaMhang. A distinction can be made between internal and external factors. The latter are mainly related to intervention by the State.

External factors of change: State intervention

There are several features of the state's current political-administrative system – that is, electoral system, political representation, state administration (including judicial administration), and development interventions that have detrimental effects on CSGSs.

In the past, the central government created various positions to collect taxes and fulfill other tasks on behalf of the government. Later, the Village Development Committee, and more recently, after implementation of federalism, the Village Municipality were tasked with carrying out political, administrative, development and judicial functions that interfere with the functioning of the customary governance and judiciary system of the TaMhang.

Intervention through the Subba System

In the 19th century, the autocratic Rana rulers had intervened in self-government of many Indigenous Peoples, including the TaMhang, Tamu (Gurung), and Yakthung (Limbu) through the *Subba* system (Regmi, 1965; Caplan, 1971, Gurung, 1974).

Messerschmidt and Gurung (1974, p. 197), write that:

‘Subba’ was a hereditary title given to the chief administrator of a region appointed by the central government in Kathmandu. The system initially had a dual purpose: to regulate and control customs on northern trade, and to secure the allegiance of the northern border peoples.

As Regmi (1965, p. 114) explains,

In non-modern societies, the basic functions of local administration are the collection of taxes, the dispensation of justice, and the maintenance of law and order. In Pallo-krat these functions are performed by a local council called the Amal. The Talukdar or head of the Amal, who can only be a Limbu, is called Subba, Rai, or Truwa Subba, with certain variations in status.”

He further writes (1965, p. 116) that the then *Subbas* were aware about bad consequences of such arrangements and complained,

Our kinsmen and relatives separate from us and became new Subbas and Rais. Several disputes thus arise in the land. If this state of affairs continues, we shall have to leave for Tibet or India.

Initially, the title of Subba was given to the highest bidder to have monopoly over trade in the region, but later Subba had authority over custom contracts in the Nepal-India border trade (Messerschmidt and Gurung, 1974, p. 198). Subba “acquired the prerequisite for economic and political power: an economic monopoly, a title with influence, and the apparent support of the central government”, writes Bista (1971).

In Thasang, the initial contract holders were the members of the Chetri caste, followed by TaMhang. Altogether, two Chetri, two Tamu (Gurung) and seven TaMhang became Subba. Bal Bir (Kalu Ram) Sherchan was the first TaMhang Subba (from 1868-76), and the last one was Mohan Man Sherchan (1926-28) (see Vinding, 1998, p. 81; Fisher, 2002, pp. 63-64). The Rana rulers had given authority to the TaMhang Subba to collect taxes for salt and wool trade along the Kaligandaki river corridor. As the Subba families were from the same community and had been socialized



Photo 29. Community members gathering at a home. [KBB]

for generations on self-government they never interfered in the customary practices of self-government in Maitang.

It appears that the first two Chetri contractors or Subba collected taxes but did not dare to interfere in the CSGs of the TaMhang because it was very strong and robust, and because they were outsiders. Unfortunately, interference in CSGs through the introduction of Bhaladmis (elder respected mediators of the *Hyul*, see below) started since the tenure of the first TaMhang Subba Bal Bir Sherchan. As they were part of the community, had lived in the community, and were more interested in collecting taxes and generating wealth, they did not do much harm to the CSGs. According to Vinding (1998, p. 86),

... in the beginning of the 20th century the sons of Harka Man Thakali introduced reforms to substitute Tibetan elements in

Thakali culture with elements from the culture and religion of the Hindu rulers in Kathmandu. This ‘de-Tibetanization’ included, among others, the introduction of new surnames (Gauchan, Tulachan, Sherchan and Bhattachan), the abolition of the Thakali’s traditional Tibetan-style winter dress, a ban on the consumption of yak meat, and a ban on capture marriages. The Thakali *subba* obviously introduced these reforms in order to appear less ‘Tibetan’ in the eyes of the high caste rulers in Kathmandu, and this move may well relate to the loss of the custom contract to Manilal Gurung in 1902.

While for some time the CSGSs and Subba system were functioning parallel, in order to increase their power and authority in the community the central government induced “self-government” of Bhaladmis, and later the “Dharma Panchayat”, which complemented and supplemented the Subba system.

Intervention through the Institution of Bhaladmis

Historical documents clearly reveal that State intervention to weaken or damage CSGSs began in 1868. As the Shah and Rana rulers could not implement their direct rule in where Indigenous Peoples’ CSGSs were strong, including Thasang, they tried to damage it by imposing the parallel political-administrative-judicial institution of Bhaladmis. They comprised the thirteen customary Ghampa and locally and nationally recognized persons with influence at both local and national levels. ML Karmacharya (1995), senior archaeologist associated with the Department of Archeology of the Nepal Government has published an article titled “Role of the Bhaladmis in the Management of Local Affairs in Southern Mustang in the 19th and 20th Centuries” in the Department’s journal *Ancient Nepal* based on government documents found in Jomsom, Thini, Marpha, Ghasa, Thak Satsae, Jharkot, Khimka, Purang, Dzong and Chhenkur issued from 1868 to 1964.

The roles and responsibilities and actual practice of Bhaladmis are described in these historical documents. The roles identified in the *Ghasa* document (Karmacharya, 1995, p. 58) are to “state in more detail and to refer to the particular cases, the problems

the Ghasa village community identified [by the Bhaladmis] as regards their life and society”.

Similar roles are identified by the Bhaladmis in the *Thak Satsae* document as well (Karmacharya, 1995, Pp. 59-60). Problems mentioned in both documents are those that have been customarily addressed by CSGSs, particularly by the Ghampa, but these problems were to be dealt with by the state-introduced Bhaladmis, creating a dual government system. According to Karmacharya (1995, p. 60),

The Thak Satsae document had some specific duties and functions for the bhaladmis to fulfill. They had to take part in the panchayat court meetings and give out their opinions, form a subcommittee as necessary with themselves and some member Mukhiyas as members to decide upon difficult and complicated cases placed before the Panchayat, and take action against any office bearing Mukhiya if a group of at least seven other Mukhiyas lodged a complaint. They had to take part in any discussion related to the matters of great significance or of serious nature. They were required to endorse in writing the decisions of the meetings, and attend a Panchayat meeting convened to discuss a no-confidence proposal against a member...

Hence, it is no surprise when Karmacharya (1995, p. 56) queries,

... Why and for what purpose these bhaladmis, in spite of their being the members of' the same community assembling to deliberate on the specific subjects, were accorded such a special status to play such a special role vis-a-vis the village elders, who in those days of feudalistic society, had dominant role to play, and to be dominated by whose sweet will the village itself was happy to vest in them the powers to exercise for implementing the decisions it itself had made is indeed an interesting subject for study, and for which no answer is there with the aforementioned documents to offer...

Interestingly Karmacharya had actually provided an answer to this query in an earlier article (1991, p. 17),

This, in my view, may be the influence of the independent political system that existed in the southern Mustang during the

17th and 18th centuries as Prof. D. Schuh had pointed out in one of his papers entitled 'Political Organizations in Southern Mustang during the 17th and 18th centuries'.

Intervention through the Dharma Panchayat

The formation of the *Dharma Panchayat* in the 1930s covering the thirteen Ghampa was also a part of the State's interference to curtail the CSGSs of the TaMhang (see Karmacharya, 1991, pp. 18-20; Vinding, 1998, p.273).

It was introduced because it was easier for the State to deal with and control one modern institution, i.e., *Dharma Panchayat*, than with thirteen Ghampa individually. The formation of the *Dharma Panchayat* comprising all thirteen Ghampa in the 1930s, with later addition of addition of posts, including *Mir Mukhiya*, *Upa Mirmukhiya*, and *Tahabil Mukhiya*. *Chautaria* (which is no more in existence), and Bhaldami (respected mediator well known senior personalities of the *H̄yul*), were also a part of the State interference to curtail the customary Justice System of the Thakali (see Karmacharya, 1991, pp. 18-20; Vinding, 1998, p. 273; emphasis in original text).

Karmacharya (1991, pp. 19-20) further writes:

For the purpose of the 'constitution', a provision had to annually elect a working committee of 13 members – all the Mukhiyas of the 13 villages, of whom the chairman was called Mir Mukhiya, the vice-chairman, Upa Mirmukhiya, and the treasurer, Tahabil Mukhiya. The meetings were generally held two times a year – once in the month of Shravan and the other in the month of Ashwin, which were called Shravan Tritiya meeting and the Vijaya Dashami meeting, respectively, after the days on which they were held. Kuriyas and bhaladamis also participated in the meetings. Ghundals may also be invited to take part as observers. As for the bhaladamis, they were to be elected as such by the concerned villages... The number of Kuriyas and bhaladamis participating was fixed as 261 and 32 respectively, supposedly to represent their respective villages. The Ghundals, if ever invited would be not more than one from



Photo 30. Yak herding at the *Marche Bukyan*. [RKS]

one village and they had no right to speak. The venue of the meetings was Kobang.

The Dharma Panchayat had some rights, including the right to impose fines and penalties, but it was nothing but an imposition by the State in order to control Thasang. Karmacharya (1991, p. 19) writes: “on whose initiation the Panchayat was thus formed is not clear, nor is clear the legal authority under which it could function as such although it is found sometimes written that it had the recognition of the Government.”

These historical documents show that the State intervened in CSGSs of TaMhang through imposed local institutions, like the Bhaladmis from 1868 to 1964. It is interesting to note that even though such State intervention went on for 96 years and had weakened CSGSs, they nevertheless survived to this day.

Intervention through the local government under the current state administration

The CSGSs in Thasang faced big challenges from the interference of the Village Panchayat and its Ward Committees, and the District Panchayat under the party-less Panchayat system in operation from 1960 to 1990.

Challenges continued with the Village Development Committee, its Ward Committees, and the District Development Committee after 1990, and the TaMhang CSGSs are now facing even more challenges from the newly introduced Rural Municipality and its Ward Committee, and the Provincial Government. TaMhang political leaders and government officials believe that the local government bodies and TaMhang CSGSs are like parallel governments, the former legally recognized, the latter not. They see CSGSs as a hindrance in implementing their development plans.

The Ghampas and other customary leaders of the TaMhang are experiencing increasing problems as they have been stripped off their collective rights, particularly the control and management of communal lands, such as forests and pastures, water and other natural resources.

Till now elected leaders have been cautious not to interfere the customary activities and practices of CSGSs, but it is a matter of time before they take it over fully and make CSGSs totally defunct.

Intervention through occupation of land by government's service institutions

The government's service institutions such as health posts, police posts, and technical institutes have occupied precious lands that have come under control by the government.

The local bodies such as the Ward Offices and Thasang Rural Municipalities are also sure to occupy land. The TaMhang CSGSs communities have given lands for these institutions either for free or on purchase, instead of giving them on lease for a specified time frame, which would have allowed them to

maintain ownership over these land with the option to eventually take these back when needed.

Intervention through political parties

Nepal restored the multiparty political system after the people's movement of 1990. As the Constitution of Nepal of 1991 did not allow political parties based on caste, ethnicity, language, religion and region, Indigenous Peoples were forced to take membership of the main political parties, including the Nepali Congress, the Communist Party of Nepal-Marxist Leninist and the Communist Party of Nepal-Maoist.

Although this means that the TaMhang are divided along party lines, so far, they still get united for common community issues and agendas. However, some respondents noted that the mainstream political parties are gradually influencing the TaMhang to de-emphasize the roles of their own customary institutions in favor of the State mechanisms.

Intervention through the Annapurna Conservation Project

Thasang is a part of the Annapurna circuit, a popular trekking route promoted by the government. It is exposing TaMhang and other Indigenous Peoples to foreign tourists and western life style, and development intervention by the government in the form of building trails, opening hotels, trekking services, bridges. Some of these had negative effects on customary self-government.

The Annapurna Conservation Area Project (ACAP) was established in 1986 under the King Mahendra Trust for Nature Conservation (KMTNC), covering Maitang, Manang, Myagdi, Kaski, and Lamjung districts. In Maitang,

... most of forest related decisions imposed during the District Forest Office tenure were reversed ... although forests were not officially handed over to the local people, or for that matter to villages, Conservation Area Management Committees and Forest Management Committees have been given the right to manage forests and other natural resources as long as their actions do not conflict with conservation goals.... (Thakali, 2012, p. 181).

Thakali (2012, p.185) describes how the customary resource governance is still functioning,

In most villages in Thaksatsai, it is still common to find that the day-to-day decisions relating to forests are still made by the *Ghempa/Mukhiya*. Villagers continue to seek the approval from *Mukhiya* to collect minor forest products such as bamboo or small trees to make poles or use green juniper/pine/cypress for special occasions. Green poles are used for hoisting Buddhist prayer flags, and cypress/pine branches are used for decoration purposes at marriages or other special ceremonies. Villagers also inform the *Ghempa/Mukhiya* of the need to cut green trees for cremation purposes. This is the only time green trees are allowed for firewood in most villages. These practices show that the authority of indigenous institutions over environmental resources has not diminished even though they are neither recognised by the Local Self Governance Act, 1999 nor by the Conservation Area Management Regulations 1996 (GoVN, 1999). These institutions have continued to play dominant roles in maintaining village authority and ownership over environmental resources.

However, participants of the Talking Circles and the validation program said that their customary government systems lost ownership and control over resources due to both forest laws and policies and nature conservation programs. ACAP has its own rules and regulations about resource conservation which they must follow, and ACAP has given them some responsibility to manage resources but it has badly affected the functioning of CSGS in many ways.

The Thasang area is included in the ACAP. The ACAP controls all natural resources of Thasang. With its establishment, the thirteen Ghampa lost their traditional control over natural resources. While ACAP has delegated the responsibility of managing natural resources to the thirteen Ghampa, it does not respect and implement ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) to give ownership and control over natural resources to the TaMhang of Thasang.



Photo 31. Lamb herding at the *Marche Bukyan*. [RKS]

In the current context, given the fact that TaMhang has an increasingly mixed population, natural resources would be used by different community members, not just by the TaMhang. There are reported cases of the conflict between the villagers and ACAP staff when the contractors confiscate the forest products such as logs outside their respective villages.

All policies and decisions relating to natural resources are made by ACAP, and customary Ghampa and community people are required to implement and manage their decisions. Customary self-government never allowed selling or exporting natural resources outside Thasang, but ACAP has encouraged doing so.

Furthermore, in some villages, like Ghasa, for example, crops are destroyed by wild animals but the community members can do nothing against these wild animals due to fear of punishment by the ACAP if they should kill or injure or trap animals that destroy

their crops. It is putting pressure on their livelihood. What is clear is that the ACAP is contributing to the erosion of the CSGs of the *TaMhang* and other Indigenous Peoples of the project area.

Intervention through the individual land registration certificate

During the autocratic rule of King Mahendra, after the introduction of the Panchayat system in 1962, people were encouraged to take loans from the bank for trade, business and industries. Part of the requirement for getting a bank loan was a land registration certificate as a security deposit, which none of the *TaMhang* and other Indigenous Peoples of Maitang had. *TaMhang* community members, being enterprising in trade and business, wanted to take bank loans and many *TaMhang* individuals registered their land with the government and received their individual land ownership certificate called Lal Purja.

This had a serious detrimental effect on collective ownership of and collective decision on the use of lands and resources. Buying and selling of land began and some lands were sold to non-*TaMhang*. CSGs are no more involved in buying and selling of land owned by individuals. It is, interesting to note, though, that the neighboring Marphali Thakali still do not give permission to sell land to any people outside of their community.

Intervention through modern education

Modern education, especially education in English started with the establishment of English boarding schools by Jesuits in Godavari and Jawalkehl in Lalitpur in the Kathmandu Valley. Affluent *TaMhang* parents started to provide modern education to their children in Saint Xavier School and Saint Mary School in Lalitpur since the 1960s and all other parents sent their children to other modern private and public schools. Modern education in these institutions delinked *TaMhang* students from their *TaMhang* Kai, *TaMhang* culture and values.

Internal factors of change

There are several internal factors that are responsible for the

decline of CSSGSs, the most important of which are briefly discussed here.

Outmigration

Migration has a damaging effect on customary self-government. During winter, TaMhang and other Indigenous Peoples of Maitang used to have seasonal migration to the south. But in recent decades, permanent migration has become more common.

There are push and pull factors for outmigration of many TaMhang from their ancestral lands. The main push factors in the past were declining economic opportunities, lack of opportunity for good-quality school and higher education in the Thasang.

Conversely, the pull factors included better economic and educational opportunities in the Kathmandu Valley and other urban center in Nepal. In the seventies, many Khampa rebels, who started armed insurgency to free Tibet from China, had camped in Maitang, and terrorized local people including the TaMhang. It was another push factor for outmigration of the TaMhang.

Many young and adult Thakali have migrated outside the Thasang, not just to Kathmandu, Pokhara and other urban areas in Nepal, but also abroad to Japan, the US and the UK. Most of the TaMhang from Hansara, Lhasa, Nambarjhong and Chantafulung have migrated, some permanently, some temporarily and some seasonally, when some families live in Thasang during summer and migrate during winter.

According to the participants of the Talking Circle, although about 70 percent of the land and houses are owned by the TaMhang, many live outside Thasang. The number of TaMhang households in Hansara is six only, and in Chantafulung three only. The number of TaMhang households in Lhasa, Nambarjhong, and Sanachong are far less than that of non-TaMhang households.

Due to increasing opportunities for education, trade and other business, and employment in urban centers, many TaMhang left their ancestral lands and settled either permanently or temporarily in cities in Nepal, such as Myagdi, Baglung, Pokhara, Kathmandu, Chitwan, Butwal and Bhairahawa, and in foreign countries like

Japan, the UK, and USA. TaMhang households are in majority in Lhasin Shyakpo, Dharmachyang, and Sartachyang. Hence, by either almost completely depopulating some of the *Ghyu*, or by changing the ethnic composition, migration has negatively impacted the CSGSs of the TaMhang. At present, in the remaining ten settlements their proportion has gone down.

The worst affected one is the Hansara, where only five TaMhang households remain and non-TaMhang are an overwhelming majority. Hansara was unable to elect their Ghampa to represent them in the thirteen Ghampa system. As mentioned earlier, the people of Hansara had elected a Marphali Thakali as their Ghampa but the CSGSs of the TaMhang did not recognize him.

Even though the number of TaMhang households has gone down to small numbers also in other settlements, such as Sauru, Lhasa, Nambarjhong and Chantafulung, their customary Ghampa still is a TaMhang. However, it is very likely that in the near future these settlements will face the same problem as that of the Hansara because the older generation is disappearing and the younger generation is forced to go outside Thasang for education and employment, many of whom never return to Thasang. Many TaMhang who live outside Thasang are opposed to the continuation of CSGSs, which they think is obsolete. Instead, they favour the “modern”, i.e. colonial way of life. So, the problem of maintaining CSGSs in TaMhang communities could exacerbate in the near future.

Modern NGO-like Indigenous Peoples’ Organizations

As the TaMhang from Thasang began to migrate to urban areas, the Thakali Samaj was formed in Pokhara in 1954, followed by the ThaSeSa central committee in Kathmandu in 1984, and subsequently its branches in Dana-Tatopani, Beni, Bhairahawa, Bharatpur (Chitwan), Birethanti, Burtibang, Butwal, Darbang, Galkot, Jomsom, Kathmandu, Kushma, Muglin, Nepalgunj, Pokhara, Syaulibang, Thasang, and Tikapur in Nepal, and also in Australia and Japan. ThaSeSa was registered with the Government under the Sanstha Darta Ain, 2034 (Associations Registration Act, 1977).



Photo 32. Ghampa of Nambarjhong worshipping nature for a good harvest. [RKS]

Although these two organizations respect the autonomy of the thirteen Ghampas in Thasang, they are undermining the customary laws relating mostly to life cycle rituals, festivals and other social and cultural activities. With the expanding influence of the ThaSeSa and because the current system of organization and representation is based on geographical location of its branches, it is undermining the effectiveness of customary institutions such as the thirteen Ghampas (GoVN, 1977). During the Talking Circle, the possibility of restructuring the ThaSeSa based on representation of *Ghyu* or place of origin, i.e., thirteen *Hyul* to revitalize their CSGSs, was discussed.

Rising inter-ethnic and inter-caste marriages

The old generations of TaMhang still give high preference to a customary practice of cross-cousin marriage,²⁶ followed by

²⁶ TaMhang practice patrilineal and matrilineal cross-cousin marriage and parallel cross-cousin marriage is a taboo. Many TaMhang of new generation believe such marriage is incest and do not practice it.

marriage relationship among TaMhang. Marriage between boys and girls of Dhaytan of different *Phya* is taboo, and marriage between parallel cousins is taboo.

Since the 1970s, many young TaMhang have received education and came in touch with people from other societies in schools, colleges and workplaces, they developed a negative attitude towards the traditional preference of cross-cousin marriage and the prescription of marriage within the TaMhang.

Many young TaMhang started to marry members of other ethnic groups, including people belonging to the Hindu caste society as well foreigners. This has created big problems within families, the *Ghyu*, *Phya* and ultimately the TaMhang, as this has led to uncertainty on whose religious, social and cultural practices and rituals should be followed from birth to death and beyond.

The increasing number of non-TaMhang residents in Thasang

The presence of non-TaMhang can lead to divisions within TaMhang communities. For example, in selecting the headquarter of Thasang rural municipality, TaMhang and non-TaMhang were divided on whether it should be in Kopang or Kyula. In the past, TaMhang used to be united in making collective decision. Those who want to have the headquarter in Kopang argue that it is the core area of Thasang, and those who argue to have it in Kyula are of the view that there is enough space there to have such a headquarter.

Factors that helped maintain *de-facto* self-government

There is no formal recognition of the right to CSGs by the State, but TaMhang have nevertheless been able to carve out and maintain the space to practice self-government. As mentioned earlier, during the autocratic Rana rule self-government was robust and running well, although the process of its weakening had started. Remoteness and lack of transportation and communication kept places like Thasang and other mountain areas isolated from the capital Kathmandu in terms of legal, administrative and judicial intervention.

Later, when the politically and economically powerful Subba were imposed as representatives of the Nepal government, they fully respected the CSGSs of TaMhang, Marphali Thakali, Baragunle and Loba in Maitang. Conversely, the CSGSs of Indigenous Peoples did not interfere in the collection of taxes on long distance trade imposed by the central government through the Subba.

Another factor that helped in keeping self-government institutions alive is the fact that Indigenous Peoples in Maitang and Manang live in a very limited spaces in densely settled communities, which makes collective way of life very effective and efficient. Indigenous Peoples of Maitang are settled along the Kali Gandaki river corridor and of Manang along the Marsyangdi river corridor, making communication among them easy.

Hence, collective decision making and implementation are very strong in these communities. This is evident from the fact that during ten years of armed conflict between the government and Maoist insurgents, there was no case of killing or disappearance from both sides in Thasang.

It so happened because TaMhang is a society of close-knit communities with collective way of life, where people know each other well and no one could take side with either of the two conflicting parties and attack the other.

Furthmore, until the end of the Rana rule and the establishment of democracy in Nepal in 1951, a negligible number of TaMhang had permanently migrated outside their ancestral lands. All land and resources were under full control of the customary self-government institutions. There was no practice of selling land to outsiders. Hence, customary self-government was very strong, efficient and effective in its day-to-day functioning.

As pointed out above, it is an irony that the CSGSs of TaMhang and other Indigenous Peoples began to erode after the establishment of democracy. The first ever democratically elected government of Prime Minister B. P. Koirala, leader of the Nepali Congress Party, abolished “feudal” Kings and land tenure systems such as *Birta* and *Jagir*. Until then, there were many kings in many

parts of Nepal, including the King of Loba in Upper Maitang.

Although “feudal Kings” were supposed to be abolished, four Kings, i.e., the Kings of Maitang, Bajhang, Jajarkot and Salyan, were recognized and continued since the King of Nepal was considered the King of the Kings, and he needed some kings to remain as King of the Kings. The three Kings of Bajhang, Salyan and Jajarkot were relatives of the King, but the King of Maitang was permitted to remain due to political and security reasons, after the self-exile of the Dalai Lama from adjoining Tibet.

Since Maitang is a Trans-Himalayan district adjoining Tibet, it has always been considered as one of the most sensitive areas in Nepal, a factor that helped limiting state intervention. The central government did not want to lose the goodwill and cooperation of the people in maintaining security in that part of Nepal.

King Mahendra established Village Development Committees (VDC) and District Development Committees (DDC) in all parts of Nepal, including Maitang. A sort of parallel government emerged, one, customary self-government, and the other the imposed modern local self-government.

However, those who are elected as the leaders of VDC and DDC hail from the same communities and thus have gone through socialization with customary self-government. Even though they may try to gain personal political and economic advantages by being a part of the Nepal government, they do not interfere in the functioning of customary self-government. Both VDC and DDC never decide and implement any policy or program without consulting and getting consent from the customary self-government.

Attempts to strengthen self-governance

TaMhang have made two kinds of attempts to strengthen self-government and get it recognized by the State. One is the continuing full, unanimous faith in their customary self-government and the ignoring of the imposed system of the central government. For example, community members go to the Ghampa if they need justice; they rarely go the local police post or the district court in

Jomsom. It has helped to maintain customary self-government.

The other attempt is the initiative by ThaSeSa to demand the creation of Thasang Lhumbu (Thasang Autonomous Province). On 26 April 2009, the then Chair of the ThaSeSa, Chitra Lal Sherchan, and General Secretary, Bhunikarna Bhattachan, had submitted a memorandum to the Constitutional Committee of the Constituent Assembly (CA) demanding a Thasang Autonomous State or Province.

The ninth conference of the ThaSeSa, held in Sanamchong in Thasang on 4 May 2009, formed the Thasang Swayetta Swasashan Sangharsha Samiti (Thasang Autonomy Self-Government Struggle Committee) with Jyoti Khunara-Bhattachan as the coordinator and thirteen other members (Khunara-Jyoti 2013, p.155). Later, Basanta Sherchan, Chairperson of the ThaSeSa, and Jyoti Bhattachan 'Khunara', Coordinator of the Thasang Swayetta Swasashan Sangharsha Samiti, also submitted a memorandum letter to the Chair of the Constituent Assembly appreciating the recommendation made by the State Restructuring and State Power Division Committee for listing 23 autonomous areas, including Thasang Autonomous Area, but criticized it for its ambiguity in terms of recognition of rights.

Hence, they demanded legal recognition of CSGs, and recognition of TaMhang and other Indigenous Peoples' rights in line with the UNDRIP and ILO Convention No. 169 (Khunara-Bhattachan, 2013, Pp. 154-160).

Article 56(5) of the current Constitution states that "Special, protected and autonomous regions may be created for socio-cultural protection or economic development according to Federal law." The Nepal Baram Sangh and LAHURNIP filed a law suit at the Supreme Court of Nepal demanding for the creation of a Baram Autonomous Area. The Supreme Court issued an order on 31 December 2018 to do so. ThaSeSa is now contemplating to file a law suit at the Supreme Court with a demand for implementation of the article 56(5) for the creation of Thasang Lhumbu (Autonomous) Region.²⁷

²⁷ During the second Talking Circle held on 28 August 2019, the Chairperson of the ThaSeSa said that he will discuss with central committee members of ThaSeSa in Kathmandu about Thasang Lhumbu, i.e., legal recognition of Thasang self-government, litigation relating to patent rights of TaMhang foods served in Thakali *Bhansa Ghar* (Thakali food restaurants), and getting back rights to natural resources taken away by the ACAP.

The Indigenous Rights movement and self-government

Indigenous Peoples' right to self-determination in general and the creation of autonomous Limbuwan, Khambuwan, Kochila, Sherpa, Tamsaling, Nepa Mandala, Tamuwan, Magarat and Tharuwan/Tharuhat in particular were part of the main political agenda of the Communist Party of Nepal (Maoist) from 1998 to 2006 when it was at war with the State.

After the end of the insurgency, Indigenous Peoples' movements and the government made several political agreements and the government had agreed to ensure Limbuwan and Tharuwan/Tharuhat states, but these agreements were never implemented.

As Indigenous leaders mostly hold only low-ranking positions in the main political parties, they comply with their non-indigenous senior leaders of the party and sacrifice the cause of Indigenous Peoples even as the Indigenous rights movement gained intensity and power to bring changes in State policies.

Currently, the Nepal Federation of Indigenous Nationalities (NEFIN) has started a diehard movement to reinstate affirmative action, but has not taken any initiative to fight for autonomy, self-rule, and the right to land, territories and resources.

Nepal's indigenous women's organizations, including the National Indigenous Women's Federation (NIWF) and its 42 member organizations, Indigenous Women's Legal Awareness Group (INWOLAG) and the National Indigenous Disabled Women Association Nepal (NIDWAN), submitted a shadow report to sixth periodic report submitted by Nepal to the Committee on the Elimination of Discrimination against Women (CEDAW), and indigenous women leaders and activists went to Geneva to lobby for indigenous women's rights during the session of the CEDAW on Nepal.

As a result, the Committee in its concluding observations on the sixth periodic report of Nepal issued on 14 November 2018, observed in Para 40(a), "The lack of recognition of the rights of indigenous women in the Constitution and the general lack of recognition of the right of Indigenous Peoples to self-

determination” and made the recommendation, in Para 41(a) to “Amend the Constitution to explicitly recognize the rights of indigenous women, in particular their right to self-determination, in line with the United Nations Declaration on the Rights of Indigenous Peoples.”

The CEDAW recommendation is binding as Nepal has been a party to CEDAW since 1991. A million-dollar question is: Will Nepal comply with this recommendation by November 2022?

In the same year, on 31 December 2018, the Supreme Court of Nepal issued a directive order to the government to enact laws on special, protected and autonomous areas in response to a case filed by Bhuwan Baram and Tek Baram demanding for a Baram Autonomous Area.

On 19 June 2019, members of the *Guthi* (customary self-government) of the Newar of Kathmandu Valley gathered at the Maitighar Mandala to oppose the Guthi Bill presented by the government in parliament, which, if passed, would destroy the CSGs of the Newar Indigenous Peoples. This street demonstration was the biggest protest since the Peoples’ Movement of 2006.²⁸ The Government withdrew the Bill.

Almost all human rights organizations, including the National Human Rights Commission (NHRC) and Informal Service Sector (INSEC) are controlled by dominant caste groups. INSEC recognizes individual rights but not collective rights of Indigenous Peoples. NHRC also focused more on individual rights and has started to focus on collective rights as well.

Until 2011, there was no collective rights division within the NHRC. After its formation it included women’s rights, Dalit rights, Madhesi rights, LGBTI rights, disabled rights and Indigenous Peoples’ rights. All of them give primacy to individual rights. Among human rights organizations, LAHURNIP is the only one that exclusively defends Indigenous Peoples’ rights.

The main reason that all other human rights organizations are in support of individual rights and against collective rights of Indigenous Peoples is that the Bahun Chetri decision-makers are opposed to Indigenous Peoples rights.

²⁸ <https://kathmandupost.com/valley/2019/06/19/thousands-protest-against-the-guthi-bill-in-kathmandu>

Many of them falsely believe that they, too, are Indigenous Peoples of Nepal and that both rural and urban Nepalese society are just amalgams of different castes and ethnic groups. They also argue that it is undemocratic and against human rights to give ownership and control over natural resources to Indigenous Peoples only.

As shown in this study, the Tamhang themselves and their leaders, including the thirteen Ghampa and ThaSeSa have been engaged in the struggle for the recognition of Indigenous People's rights and self government, and are doing their best, irrespective of State interference and other challenges, in continuing their customary institutions and practices.

There are a number of good practices of the TaMhang CSGSs which this study could identify:

- For the TaMhang, lands, territories and resources, culture, belief, rituals, and self-government are closely connected: There are no TaMhang if there is no Thasang (Ancestral Land), and there is no Thasang without the unique values, institutions, and practices that make the distinct collective identity and CSGSs of the TaMhang alive and sustainable.
- There is a spiritual foundation in the TaMhang CSGSs. There is legitimization of authority and the regular affirmation of these spiritual roots of governance in rituals and ceremonies, like the institutionalization of *Khe Mom* through *Khimi Jhuwa* during marriage, *Khimi* during death and depositing pieces of bone of the deceased at the *Khimi Dhim*, the annual *Khimi Rhamjen*, the three-days long *Khimi* during the annual Toranglha, reading of *Rhap* in public every twelve years during *Lha Fewa*, and other religious, social, and cultural practices. TaMhang ancestors were visionary to establish these unique institutions and practices that contributed to the survival and continuation of CSGSs.
- For TaMhang, past, present and future are all in one. They respect and treat *Khe Mom*, i.e., spirits and ancestors as being alive and they all want to hand over their distinct collective way of live from generation to generation.
- Customary values, laws, institutions, and practices bind all TaMhang very strongly together as a collective and help maintain their collective way of life, whether they

live in their ancestral land or anywhere else in the world.

- TaMhang enjoy inclusive collective participation in customary self-governance leading to collective consensual decision-making. All TaMhang are or can be citizens, leaders, decision makers, lawyers, judges, managers, custodians, beneficiaries, rights holders, and duty bearers that keep their CSGs participatory, highly democratic, inclusive, well functioning, meaningful and sustainable.
- Finally, TaMhang practice restorative justice that makes their CSGs more meaningful.

There are also a few key lessons that can be learnt from the case study on the TaMhang CSGs that may be of interest to others.

- Thasang ancestral land is the main foundation of CSGs of the TaMhang. The CSGs were robust when there was full ownership and control over their ancestral lands. Although the partial loss of ownership and control due to State intervention has weakened the CSGs, continuing access to, use and management of ancestral lands has kept the CSGs alive and functioning.
- A small population size with compact settlements makes it easier for CSGs to continue functioning well.
- Outmigration of TaMhang from Thasang and immigration of non-TaMhang in Thasang damage the CSGs.
- Since the CSGs of the TaMhang Indigenous People is like a living being, in which all parts – physical, social, cultural, economic, political, spiritual, psychological – and also past, present and future are interconnected and interdependent, damage in or disappearance of one part affects all, ultimately leading to the end of a distinct collective identity, collective way of life and CSGs.
- Since the Nepal State does not implement the UNDRIP



Photo 33.
Symbolic image
of evil. [RKS]

and ILO Convention 169 it continues to be predatory to the CSGs of Indigenous Peoples like the TaMhang.

- The State does not hand rights to Indigenous Peoples on a silver platter; they need to keep claiming and asserting them. However, Indigenous Peoples have small populations which limits their strength, prompting for forging alliances with other Indigenous Peoples.

Possible supportive intervention

Some possible intervention measures to promote and support government of the TaMhang living in both homogenous and heterogeneous communities are:

- Since selling land to outsiders ultimately contributes to the demise of self-government, buying and selling of land must be confined to community members. The thirteen Ghampa and ThaSeSa should come up with a rule prohibiting selling of land to outsiders in Thasang, and encourage TaMhang to buy land from non-TaMhang as much as possible.
- Stop further outmigration and encourage those TaMhang who have moved outside Thasang to come back to

Thasang. The thirteen Ghampa should have a plan to provide land for building a house to those TaMhang who do not have land in Thasang.

- Orient and teach TaMhang children and youth about the significance of CSGS practices.
- Reorganize the ThaSeSa with a two-tier system: one tier of representation of each *Ghyu* and the other tier representing the thirteen *Hyul*, even in places outside Thasang.
- TaMhang and their leaders and organizations, including the thirteen Ghampa and ThaSeSa should launch a strong movement for autonomy and self-rule in Thasang with the support of the national and international movements of Indigenous Peoples.
- The Indigenous Peoples' movement in Nepal should intensify exerting pressure on the government to rewrite or amend the Constitution and laws to give constitutional and legal recognition of CSGSs in line with the UNDRIP and ILO Convention No. 169. A good starting point could be the implementation of the CEDAW recommendations to Nepal made on 14 November 2018 to amend the Constitution to explicitly recognize self-determination of Indigenous Peoples and all rights of indigenous women in line with UNDRIP.
- Following the directive order issued by the Supreme Court of Nepal relating to Baram autonomy, Ghampa and ThaSeSa should file a law suit demanding Thasang autonomy and recognition of their customary self-government systems.
- A complaint should be submitted to CERD and ILO about the violation of Indigenous Peoples' rights through the establishment of the Annapurna Conservation Area Project under the National Trust for Nature Conservation (NTNC).
- Prepare and implement collectively a statute of the territorial autonomy the TaMhang nation.

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Annexure 1. TaMhang (Thakali) population by areas and clans according to the census of 2051 V.S. (1954-95 AD) taken by the Thakali Sewa Samiti

S.N	Area	Dhimizen (Sherchan)			Chogi (Gauchan)			Saigi (Tulachan)			Bhurgi (Bhattachan)			Total							
		HH	F	M	HH	F	M	HH	F	M	HH	F	M	HH	F	M	T				
1	Thak Satsaye (Thak Krola) [Thasang] (Mustang) [Maitang]	77	199	190	389	87	219	227	446	49	114	107	221	7	22	16	38	220	554	540	1,094
2	Dana-Tatopani	21	51	57	108	23	45	55	100	7	17	16	32	3	12	6	18	54	125	134	259
3	Jhonhsamba/ Jonsom (Mustang)	33	80	76	156	11	32	20	52	4	12	6	18	7	14	15	29	55	138	117	255
4	Baglung	30	83	81	164	49	137	127	264	7	10	15	25	6	10	9	19	92	240	232	472
5	Beni (Maygdi)	60	155	168	323	25	72	65	137	13	33	38	71	17	40	41	81	115	300	312	612
6	Darbang (Myagdi)	54	152	159	311	24	73	75	149	22	68	59	127	29	99	78	177	129	392	371	763
7	Burtibang	48	168	184	352	31	82	74	156	15	51	41	92	16	47	40	87	110	349	339	688
8	Birethanti (Parbat)	15	46	41	87	3	11	7	18	9	22	18	40	1	2	2	4	28	81	68	149
9	Pokhara-Syanja (Kaski & Syanja)	81	190	196	386	48	113	125	238	33	80	86	166	27	63	55	118	189	446	462	908
10	Kathamndu (&Lalitpur)	102	215	241	456	80	168	188	356	25	62	55	117	40	88	94	182	257	533	578	1,111
11	Chitwan	24	78	76	154	22	64	66	130	2	3	5	8	2	4	9	13	50	148	156	304
12	Bhairahawa (Rupandehi)	12	31	37	68	7	12	18	30	4	7	12	19	7	15	19	34	30	65	86	151
13	Butwal (Rupandehi)	64	172	166	338	65	161	188	349	14	42	40	82	14	37	43	80	148	412	437	849
14	Banka-Nepalgurj	6	12	13	25	7	16	11	27	19	39	33	72	3	4	5	9	19	39	33	72
15	Kailali-Dhangadhi	5	18	23	41	1	3	1	4	4	12	14	26	0	0	0	0	10	33	38	71
16	Tanghas Gulmi	4	14	12	26	3	5	5	10	2	9	11	20	2	2	5	7	11	30	33	63
	Total	636	1,665	1,720	3,385	477	1,213	1,252	2,465	213	549	527	1,076	181	459	436	895	1,507	3,886	3,936	7,822
	%	42.2				31.6				14.1				12.1				100	100	100	100

Source: Thakali Sewa Samiti (ThaSeSa) Kendriya Samitidwara tayar pariyeko Nepal Adhirajyama Basobas Garne Thakaliharuko Jana-Ganana, 2051 BS (1994-95).

Annexure 2. TaMhang (Thakali) population by urban/rural residence, ecological belt and Development Region

Location		Population		
		Male	Female	Total
Urban/Rural				
	Urban	2,783	3,157	5,940
	Rural	3,347	3,901	7,275
Total		6,157	7,058	13,215
Ecological Belt				
	Mountain	1,324	1,401	2,725
	Hill	3,886	4,549	8,435
	Terai	947	1,108	2,055
Total		6,157	7,058	13,215
Development Regions				
Eastern	Sub-Total	128	251	379
	Mountain	7	14	21
	Hill	32	72	104
	Terai	89	165	254
Central	Sub-Total	1,788	1,974	3,762
	Mountain	10	5	15
	Hill	1,629	1,785	3,414
	Terai	149	184	333
Western	Sub-Total	3,887	4,434	8,321
	Mountain	1,262	1,326	2,588
	Hill	2,016	2,446	4,462
	Terai	609	662	1,271
Mid-Western	Sub-Total	302	344	646
	Mountain	45	56	101
	Hill	204	243	447
	Terai	53	45	98
Far-Western	Sub-Total	62	55	107
	Mountain	0	0	0
	Hill	5	3	8
	Terai	47	52	99
All Total		6,157	7,058	13,215

Source:
Table 20: Population by caste/ethnicity (Central Bureau of Statistics, 2012, p.145, p. 148, p. 152, p. 155, p. 159, p. 162).

Annexure 3. TaMhang Population speaking Thakali mother tongue (TaMhang Kai) by urban/rural residence, ecological belt and Development Region.

Location		Population speaking Thakali mother tongue (<i>TaMhang Kai</i>)		
		Male	Female	Total
Urban/Rural				
	Urban	1,124	1,239	2,363
	Rural	1,337	1,542	2,879
Total		2,461	2,781	5,242
Ecological Belt				
	Mountain	851	904	1,755
	Hill	1,301	1,466	2,767
	Terai	309	411	720
Total		2,461	135	5,242
Development Regions				
	Eastern	59	135	194
	Central	700	775	1,475
	Western	1,628	1,789	3,417
	Mid-Western	38	47	85
	Far-Western	36	35	71
Total		2,461	2,781	5,242

Source: Table 21: Population by mother tongue (Central Bureau of Statistics, 2012, p. 164, p. 168, p. 171, p. 174, p. 178, p. 181).