



संयुक्त राष्ट्र संघका लागि नेपालको स्थायी नियोग
**PERMANENT MISSION OF NEPAL
TO THE UNITED NATIONS
GENEVA**

No.OHCHR.SP.2020.261

The Permanent Mission of Nepal to the United Nations Office and other International Organizations in Geneva presents its compliments to the Special Procedures Branch, Office of the High Commissioner for Human Rights (OHCHR), and with reference to AL NPL 3/2020 Joint Communication dated 16 October 2020 sent by the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, has the honour to enclose herewith response of the Government of Nepal on the points raised in the Joint Communication.

The Permanent Mission of Nepal to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to Special Procedures Branch, Office of the High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.

Geneva, 21 December 2020

Special Procedures Branch
Office of the High Commissioner for Human Rights (OHCHR)
Geneva



Response on the Joint Communication on the destruction of homes, forced eviction and alleged torture and ill-treat of Chepang indigenous peoples in the Chitwan National Park in July, 2020

1. The Constitution of Nepal-

The State shall pursue the following policies:

Article: 51(g). Policies of the State: (g) Policies relating to protection, promotion and use of natural resources:

(5) to conserve, promote, and make sustainable use of, forests, wildlife, birds, vegetation and bio-diversity, by mitigating possible risks to environment from industrial and physical development, while raising awareness of general public about environment cleanliness,

(6) to maintain the forest area in necessary lands for ecological balance,

(7) to adopt appropriate measures to abolish or mitigate existing or possible adverse environmental impacts on the nature, environment or biological diversity,

(8) to pursue the principles of environmentally sustainable development such as the principles of polluter pays, of precaution in environmental protection and of prior informed consent.

Article: 52. Obligations of the State: It shall be the obligation of the State to make Nepal a prosperous and affluent country by protecting and promoting fundamental rights and human rights, pursuing directive principles of the State and gradually implementing policies of the State, while keeping intact the freedom, sovereignty, territorial integrity and independence of Nepal.

Based on the above mentioned constitutional provisions, the state has a strong commitment to protect forest, wildlife, plant resources and biodiversity.

2. According to the National Parks and Wildlife Conservation Act- 2029 (1973), the following provisions have been made:

Section: 5. Prohibited actions within National Park or Reserve: No person shall carry out the following actions within national park or reserve without obtaining a written permission from the authorized official:

b. To construct or possess house, hut, shelter, or any other structures of any material,

- c. To occupy, clear, reclaim or cultivate any part or grow or harvest any crop,
- e. To cut, clear, fell, remove or block trees, plants, bushes or any other forest resources, or do anything to cause any forest resources dry, or set it on fire, or otherwise harm or damage it,
- g. To cause damage to forest resources or wildlife or birds or any land,

3. According to Buffer Zone Management Regulation- 2052 (1996), the following provisions have been made:

Rule: 17. Prohibited Activities within the Buffer Zone: No person unless in possession of written permission from the warden shall commit the following acts within a buffer zone. It is considered a crime if such acts are done.

- (a) Occupy any land without legal ownership or cut trees, clear forests or cultivate forestland,

Based on the above mentioned provisions under the Act and Regulation, it is clear that all the forest related illegal activities are controlled by the park authorities.

4. The National Parks and Wildlife Conservation Act- 2029 has the provision as:

Section: 3(b) (1) Security Management: the security management of National Parks, Wildlife Reserve, Conservation Areas and Buffer zone will be provisioned by the Government of Nepal. The Government has deployed Nepal Army in all National Parks (including Chitwan National Park) and Wildlife Reserves followed with Standard Operating Procedure (SOP) for Nepal Army in National Parks and Buffer zones.

- 5. The National Parks and Wildlife Conservation Act- 1973, Buffer Zone Management Regulation- 1995, Conservation Area Management Rule-2053 (1997), Conservation Area Government Management Rule-2057 (2000) etc. have assured the meaningful community participation in the conservation and management of biodiversity. There are 22 Buffer Zone Users Committee in Chitwan National Park alone. These Users Community mobilize the fund made available by the Chitwan National Park.**

The Section 25a. of the National Parks and Wildlife Conservation Act- 2029 has following provision:

May be expended for the community development: Up to thirty to fifty percent of the amounts earned by a National Park, Reserve or Conservation Area may be expended, in co-ordination with the local authorities for community development of local people.

Hence, the Buffer zone area of CNP has been continuously utilizing 50% of the park revenue through Users Committee.

6. At the Buffer zone area of Ayaudhyapuri Users Committee, there has been the encroachment of the area since the year 2053 BS (1997 A.D). In the year 2059 BS (2003), CNP had officially notified number of households, and illegal users of cattle sheds and farmland to move out from the encroached areas. However, they continued to stay there and even expanded the encroached areas without caring of the notification. The act is against the Buffer Zone Management Regulation- 2052 Rule 17 (a), for which park authority is responsible to control. They have been warning and officially notifying to abandon the encroached area. But the encroachers were not obeying and respecting the rules.
7. There are presently 201 households (HHs) (expanded from 160 HHs earlier) in Kusum Khola area. In 2074 BS (2017) they were trans-located by Madi Municipality to Ward no. 9 Pyauli Raidanda (public land) and School danda (Community Forest) and Ward no. 8 Tunamuna (public land) and Ward no. 7 Parawai khola (public land). Even though among those 201 HHs, 8 HHs are still illegally staying at the Kusum Khola area. Those 8HHs who hadn't left the Kusum Khola area during the translocation continued to capture the land through cultivation of crops, putting wooden watch towers and so on. The park authority has been warning them time and again but they didn't pay any attention.
8. Hence, according to the decision of CNP authority dated 2077/4/3 (July 18, 2020), the joint operation team from the park administration and army conducted a joint operation at Kusum khola area for the necessary law enforcement.

perpetrator, [REDACTED] [REDACTED] of Nepal Army is in custody under investigation. Moreover, reliable security had been provided to witness during the investigation of the incident.

Furthermore, a decision to provide 1 million rupees (3 hundred thousand from Rapti Municipality and 7 hundred thousand from Buffer Zone Management Committee) as relief and bear the expenditure of his daughter's education (until higher education) from buffer zone management area was made by the Park Administration, Nepal Army, Local Level and Buffer Zone Management Committee co-ordinated by the District Administration Office, Chitwan. Moreover, a decision was also made that the information of not entering into restricted area without permission should be provided to local inhabitant/public people by the National Park, Buffer Zone Management Committee and National Park Administration.

11. The DNPWC and National Parks under the direct supervision of the Ministry of Forests and Environment are always highly sensitive towards proper law enforcement and securing all the fundamental rights of citizens ensured by the Constitution. The National Parks are always working for the conservation of forest and wildlife with due consideration of the protection of Human Rights.

After all the conservation of forest and biodiversity is for the people. The DNPWC has been organizing different trainings for wardens, staff and army personnel on Human Rights and law enforcement. The park wardens are not allowed to give any verdict without 3 months judicial training. It is a mandatory provision.

12. All the National Parks have restricted entrance at certain specific area for people. It is highly restricted to enter inside the core area of National Parks to collect forest resources as there is a very high chance of Human-Wildlife Conflict (HWC) at these sensitive areas. There were number of incidents where the trespassers were killed by the wild animals inside the parks.

To address the demand of locals for forest resources, the government has started the concept of Buffer Zone Community Forest from where the local people can obtain the

necessary fodder, wood e.t.c. There are more than 70 Community Forest at the Buffer zone of Chitwan National Park.

CNP is the natural World Heritage Site since 1984 AD. It is considered as the gift for the planet. The National Park authority comprises of more than 1500 staff (Administration+ Army+ Elephant operation staff) at 57 posts who are working hard for the conservation of these natural resources.

Indigenous people have always been the part and parcel of the community conservation. CNP always respect their cultural values and traditional knowledge. The successful Buffer Zone concept is the good example of people's participation in conservation. The twenty-four hours duty by the park staff to conserve this legacy is highly appreciable we think that conservation of nature is our common responsibility.