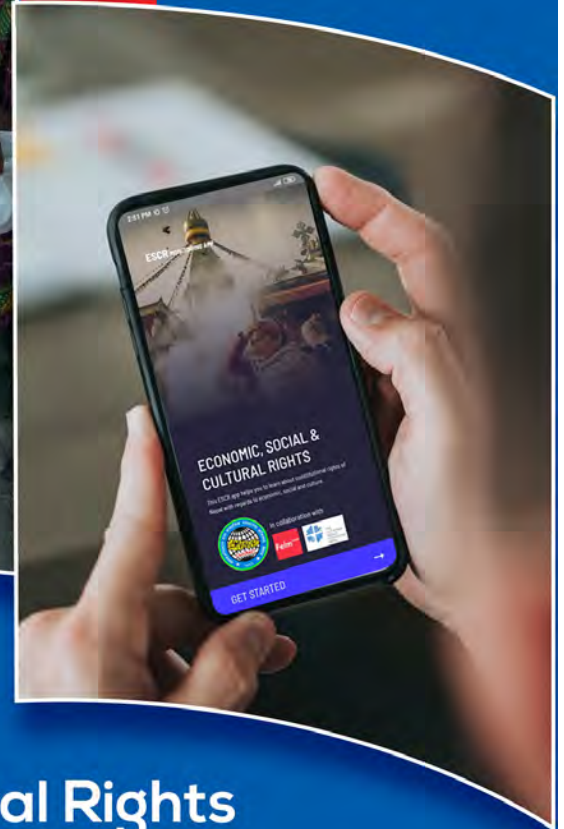


# ESCR

Year Book 2019



## Implementing Situation of Economic, Social and Cultural Rights in Nepal





Capacity Building of Right Holders/Networks/CSOs Working on Priority Rights Issues to Produce Evidence from Grass-Root Level, Doti District



Data collection using ESCR Moile App by community monitor



Meeting with community monitor and LCWS office team in Morang District



National Level Consultation on UPR with Government and NHRIs in Kathmandu (Bagmati Povice)

आर्थिक, सामाजिक तथा साँस्कृतिक  
आधिकारप्रति हाम्रो प्रतिबद्धता ।

सम्पूर्ण मानवअधिकारको संरक्षणमा  
अभियानको क्रियाशीलता ।

मानवअधिकार उल्लंघन तथा  
हवन सम्बन्धी घटनाहरूको  
जानकारी गराई मानवअधिकार  
संरक्षणमा सहयोग पुऱ्याऔं ।



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# Implementing Situation of Economic, Social and Cultural Rights in Nepal



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(CAHURAST, Nepal)

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## Abbreviations and Acronyms

<b>ESCR</b>	Economic, Social and Cultural Rights
<b>GESI</b>	Gender Equality and Social Inclusion
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>LWF</b>	Lutheran World Federation
<b>Felm</b>	Finnish Evangelical Lutheran Mission
<b>NHRC</b>	National Human Rights Commission
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>OPMCM</b>	Office of the Prime Minister and Council of Ministers
<b>PIL</b>	Public Interest Litigation
<b>RMHSF-N</b>	Rastriya Mukta Haliya Samaj Federation Nepal
<b>SUS</b>	Saamari Utthan Sewa
<b>LCWS</b>	Lutheran Community Welfare Society
<b>SDG</b>	Sustainable Development Goal
<b>SPSS</b>	Statistical Package for Social Sciences
<b>UPR</b>	Universal Periodic Report
<b>USSBM</b>	Upekchhit Samudaya Sashaktikaran tatha Bikas Manch
<b>NGO</b>	Non Governmental Organization
<b>UNDP</b>	United Nations Development Programme
<b>H/H</b>	Households
<b>ID</b>	Identity Card
<b>GBV</b>	Gender Based Violence
<b>NLSS</b>	Nepal Living Standards Survey



## About the Organization

Campaign for Human Rights and Social Transformation (CAHURAST), Nepal is a non-profit social organization and a Non-Governmental Organization (NGO) established in 2006 with the mission to protect rights and establish peace in Nepal. It works towards creating a civilized, cultured and rightful society with full respect to human rights, dignity, justice and happiness of the Nepalese People. It focuses on the people's Economic, Social and Cultural (ESC) rights focusing on a strong belief that ESC rights constitutes one of the major bases of sustainable democracy that has been neglected by the state after every conflict in Nepal leading to sown the seeds of renewed conflict. CAHURAST Nepal has its own networks in 68 out of 77 districts in Nepal.

## Acknowledgment

We are grateful to Finnish Evangelical Lutheran Mission (Felm) and Lutheran World Federation (LWF) Nepal for their continued support on bringing out ESCR Year Book since 2017 till date. This book is our 3<sup>rd</sup> edition as ESCR Year Book 2019.

We express our sincere thanks to Lutheran Community Welfare Society (LCWS), Saamari Utthan Sewa (SUS) and Rashtriya Mukta Haliya Samaj Federation Nepal (RMHSF-N) for coordination in the district level through a series of consultation meetings, lobbying with key stakeholders and all the inputs. We appreciate the diligent effort of the community monitors from Sarlahi, Morang and Doti district for collecting ground information and data and also for collecting and fixing issue based cases on the ground. We also highly acknowledge the entire team of project districts for their coordination and providing impactful case stories on the issues of citizenship issues, statelessness issues, rehabilitation package issues, untouchability and discrimination issues. The most valuable contributors for the successful publication of ESCR Year Book are the community people who provided data and information on their situation.

Furthermore, we highly acknowledge the valuable contribution of Roosa Rantala, Manager for Development Cooperation, Niko Humalisto, Advocacy Specialist of Felm, Dr. Bijaya Bajracharya, Country Director of LWF Nepal and Bal Krishna Chaudhary, Provincial Program Coordinator of LWF Nepal who continuously provided constructive feedback for finalization of this year's book.

Additionally, we owe much gratitude to the ESCR project team for their continuous effort for analysis of the findings and giving the final shape to the document. Finally, we would like to express our gratitude for all the staff members for their support in administration and coordination works for publishing this book.

We are overwhelmed in all humbleness and gratefulness to acknowledge our depth to all those who have helped to put their ideas, well above the level of simplicity and into something concrete. The completion of this piece of work as ESCR Year Book 2019 could not have been accomplished without support of all above mentioned members and organizations.

## Foreword

Campaign for Human Rights and Social Transformation (CAHURAST), Nepal has been established to safeguard Human Rights of the people of Nepal with special focus on Economic, Social and Cultural (ESC) Rights. It has completed more than a decade-long journey.

The administrative structure of Nepal has been renewed since the signing the constitution that acknowledges several ESC Rights as the fundamental Rights of Nepalese citizens. Despite this positive change, there are still doubts whether those rights will be fully enacted. To ensure the implementation of these ESC rights in practice, there is a dire need to monitor the protection of those rights by the citizens themselves, in particular, community monitoring that follows the approach of 3E: Educating, Empowering and Engaging

Monitoring of ESC rights has been less practiced in the history of Nepal and bridging Human Rights with technology was not in practice. CAHURAST Nepal in collaboration with Felm and LWF initiated a monitoring program of ESC rights from 2017 that makes efficient use of ESCR mobile app technology.

With the evidence and data from field monitoring results, we started to publish the **ESCR Year Book** to show the facts and figures. So far, we have published two editions as ESCR Year Book 2017 and ESCR Year Book 2018 focused on SDG 3 (right to health) and 4 (right to education) of community people. This ESCR Year Book 2019 is the 3rd edition focused on right to health, right to education and moreover on issue based of the target group- SDG 8 (target 8.7) and SDG 11(target 11.1) rehabilitation package issues of Haliya Community, SDG 1(target 1.4) land rights issues of Santhal Community and SDG 10 (target 10.3) discrimination and untouchability issues of Dalit community.

We expect to receive constructive feedback from the experts and Human Rights defenders for its improvement.

**Bishnu Pukar Shrestha**  
Chairman

# Table of Contents

EXECUTIVE SUMMARY	I-III
1. INTRODUCTION	1
1.1 ESCR in Global Context	1
1.2 ESCR in National Context	1
1.3 ESCR and UPR	3
1.4 Rational of ESCR Yearbook	5
2. METHODOLOGY	7
2.1 Profile of Monitoring Area	7
2.1.1 Monitoring location	7
2.2 Description of target communities	9
2.2.1 Santhal Community	9
2.2.2 Dalit Community	9
2.2.3 Haliya Community	10
2.3 ESC rights monitoring approach	12
2.3.1 Developing monitoring questionnaire	12
2.3.2 Community Monitors mobilization for ESC rights monitoring	12
2.3.3 ESC rights monitoring with use of ESCR mobile App	12
2.4 Data Collection	14
2.4.1 Data Source	14
2.4.2 Data Collection tools and techniques	14
2.5 Sampling	15
2.6 Ethical Consideration	15
2.7 Data Analysis	16
3. KEY FINDINGS/ ANALYSIS	17
3.1 Right to Education	17
3.2 Right to Health	19
3.3 Issues of Target group	22
3.3.1 HALIYA: Right to timely and just rehabilitation	22
3.3.2 DALIT: Right against untouchability and discrimination	27
3.3.3. SANTHAL: Right to Land	31
4. CONCLUSION	36
Key conclusions observed on the ESC Rights	37
5. RECOMMENDATIONS	38
REFERENCES	43
ANNEXES	45

## List of Tables

Table 1:	Recommendations on economic, social and cultural rights during 2nd cycle of Universal Periodic Review of 2015	3
Table 2:	Total number of data collected from target community	15
Table 3:	Categorization of Government of Nepal rehabilitation packages	23

## List of Figures

Figure 1:	Location Map of ESCR Monitoring Areas	8
Figure 2:	Front version of ESCR App	13
Figure 3:	The workflow of data gathering through the monitoring app	13
Figure 4:	Distance to the school from the target group cluster	17
Figure 5:	Number of drop out students	18
Figure 6:	Caste Based Discrimination at Health Post	19
Figure 7:	Toilet facilities	20
Figure 8:	Incident of maternity death	20
Figure 9:	Discriminations faced at public water point	21
Figure 10:	Major occupation of Freed Haliya	22
Figure 11:	No. of Haliya family working as Haliya	22
Figure 12:	No. of Haliya family received Freed Haliya ID card	23
Figure 13:	No. of Freed Haliya Family received Government Rehabilitation Package	24
Figure 14:	Reasons behind not receiving rehabilitation package	24
Figure 15:	Problems faced by Freed Haliya family after receiving rehabilitation package	25
Figure 16:	Awareness about Freed Haliya policy and process of getting rehabilitation package	25
Figure 17:	Awareness regarding Dalit policy	27
Figure 18:	Discriminative behaviors faced by Dalit community	28
Figure 19:	Atrocities that Dalits are facing because of getting married with Non-Dalit	28
Figure 20:	Equal wages receive compare to Non-Dalits	29
Figure 21:	Selling products without discrimination	29
Figure 22:	Incidents of Gender Based Violence	29
Figure 23:	Occupation of the Santhal Community	31
Figure 24:	Government subsidies for Santhal community	32
Figure 25:	Ownership with land registration certificate	32
Figure 26:	Land belong to Santhal Community	32
Figure 27:	Reasons behind Santhal community landlessness	33
Figure 28:	Reasons behind Santhal community not getting land certificate	33
Figure 29:	Disaster problem faced by Santhal community	34
Figure 30:	No. of Gender Based Violence incidents	34
Figure 31:	Reasons behind not receiving Citizenship	35

## Executive Summary

Economic, social and cultural (ESC) rights are important themes of the human rights frame. The Constitution of Nepal 2015 assured ESC rights as fundamental rights under Part – 3 Fundamental Rights and Duties, Article 16 – 45. Despite this legislative progress, the citizens at grassroots level still face discrimination, deprivation, exclusion and lack of basic needs like, shelter, foods, education, health and many other fundamental elements of ESC rights.

This situation shows the need for **evidence-based advocacy** for the fulfillment of basic needs and realization of human rights, especially for the most marginalized people in the Nepalese society.

To this context, CAHURAST Nepal together with Felm and LWF has initiated evidence-based documentation of ESC rights situation of the citizens since 2017 in the form of ESCR book. This is our 3rd edition as ESCR Year Book 2019.

The 3<sup>rd</sup> edition covers the ESC rights situation with special focus on right to health, right to education of Haliya community of Doti and Dadeldhura districts, Santhal community of Morang and Dalits of Sarlahi districts of Nepal. In a newly established democratic context of Nepal, there is a need to raise voice from civil society for the respect and fulfillment of every human right by the state. ESC Rights are the basic Human rights. The constitution of Nepal also has clearly spelled out that the ESC Rights as fundamental rights of citizens. It shows the Government of Nepal has committed to fulfill these rights but in practice there is a gap.

Less priority is given to ESC Rights even from the civil society too. Various research and monitoring has been done on ESC rights but the research and study lacks qualitative and accurate information on the situation of ESC rights. Government has prioritized the right to health and the right to education for the fiscal year 2018/19 and Rs. 56.42 billion has been allocated to the health and Rs. 134.51 billion for the Education, Science and technology sector.<sup>1</sup>

Therefore, there is a need of third party monitoring whether the fund is used properly, effectively and accessed to the target group. Further, with the concept of leaving no one behind, the Government of Nepal has a provision of allocation of budget for people with disabilities and for the marginalized groups. Among marginalized groups, Haliya, Dalit and Santhals are the most marginalized, so called lower caste and deprived population facing age old oppression due to which they are backward in every sector and lagging behind to claim their rights. Their literacy rate is also very low.

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<sup>1</sup> Khatiwada, Dr. Yuba Raj, Honorable Finance Minister. *Budget Speech of Fiscal Year 2018/19*. Delivered to Joint Assembly of Federal Parliament. Tuesday 29 May 2018. Retrieved from [https://mof.gov.np/uploads/document/file/speech\\_english\\_20180715091610.pdf](https://mof.gov.np/uploads/document/file/speech_english_20180715091610.pdf)

Thus, the study is focused on ESC Rights situation and marginalized community to dig out the real situations and advocate fulfilling the gaps in the implementation. At the same time, it presents evidence on the prevailing issues - rehabilitation package issues of Haliya community, landless issues of Santhals and discrimination and untouchability issues of Dalits. The data on ESCR issues is collected by the trained community monitors of respective districts. They make use of an ESCR mobile app developed as a monitoring tool adjusted with the semi structured questionnaire on the right to health and education of target groups.

This edition is based on data that was collected from May to December, 2020 with 3841 community people (1604 respondents of Haliya community, 1382 of Dalit community and 855 of Santhal community). This data is both reliable and valid for examining the situation of rights to education and right to health. The report also examines the particular human rights issues that concern each of the selected marginal groups specifically.

**On Education:** Around 20% of the children on an average in the project district are still deprived from the right to education despite the Nepal Governments' provision of free education up to the secondary level. Our findings show that still 25% of Haliya children, 14% Dalits and 17% Santhals drop out from school. On the positive side, schools are accessible, and the majority of the students could reach the schools within an hour. However, many children of the marginal groups do not tend to school due to their poor economic conditions and lack of awareness regarding the importance of education.

**On Health:** The discriminated communities under our examination face discrimination and restrictions in treatment on the health services. We were able to determine that 33% Dalits are still facing discriminatory behavior in Health Posts. They face negligence in treatment, get less priority for treatment and need to wait longer than other community people. Haliyas and Santhals face similar problems but to a lesser degree than Dalits. Likewise, Nepal has been declared 'Open Defecation Free' country. Despite being free from open defecation, there are many community people who don't have access to toilet facilities. Here, 31% Santhal community said that they don't have access to toilets as they don't have their own land. Similarly, 19% Dalits and 12% Haliya community don't have access to toilet facility. The accessibility of toilet facilities should be a prime concern of the government as it is connected with the health of human beings.

**Haliya:** The right to health and right to education somehow linked with the prevailing issues among the target group. The Haliya system was already abolished by the Government of Nepal in 2008. However, our survey shows handful few of Haliya families are working still as bonded labor (Haliya) because of the remaining debts taken by their forefathers. Similarly, after the abolition of the Haliya system, the government has decided to distribute the Freed Haliya ID card to recognize the Haliya people and rehabilitation packages. However, 71% Haliya families are still remaining to receive the Freed Haliya

ID card and 77% families are lagging behind to receive the Freed Haliya rehabilitation package. It is because they are still unaware of the Freed Haliya policy regarding their rights.

**Dalit:** Caste based discrimination and untouchability system was officially abolished in Nepal but to some point this system still prevails among mostly Dalits. Our survey shows that, 55% of Dalits of Sarlahi district are restricted to touch water/foods. Almost half of the Dalits faced dominating behaviors by upper caste people and whenever they visited a tea shop, they had to wash their glass themselves. We also found out that some Dalits did not receive equal wages compared to other castes. There are multiple reasons in discrimination but a significant explanatory factor might be that 96% Dalits are unaware about their rights and policy regarding Dalit community. Due to lack of knowledge they are not being able to claim their rights and fight against discriminations.

**Santhal:** Though the GoN has accepted the recommendation under the 2<sup>nd</sup> cycle of UPR on ESCR in 122.89 to facilitate access to housing for marginalized and low-income groups, the ground reality is different. Santhal communities (one of the marginalized landless communities) living on public or rented land are far behind accessing government services. Only eight percent have received the government subsidies under the Poverty Alleviation Fund, toilets or housing fund. Even those having lands lack land registration certificates (99% are landless and 69% don't have land registration certificates). This is because they lack a citizenship certificate. Also, Santhal children drop out of the school for not being able to get birth registration. All of the respondents of the survey have no idea and are unaware of their rights and policies which disable them to claim their rights and government services

The Government should make its citizens aware of human rights violations and must take effective actions for the implementation of ESC rights. This ESCR Year Book 2019 is a tool suitable for advocacy to raise the voice of the target groups from local to global and hold duty bearers accountable. Following conclusions are drawn for our findings:

- a. The Nepal Government has abolished the Haliya system but there are still Haliyas as bonded labor. Freed Haliyas are still not receiving ID cards and the majority of the freed Haliyas are not receiving **rehabilitation packages**.
- b. In Spite of the declaration of non-discriminations on the basis of caste, gender and religion in the constitution and law, Dalits are facing discriminations on wages, social celebration and **untouchability** still prevails.
- c. Santhal people are **landless and stateless** even the government formed commissions. They don't have citizenship and land certificates.
- d. Several gaps still exist in proving the education and health for the marginalized groups. Nepalese government and the local authorities should be held accountable for protecting the basic rights of their citizens.

# 1. INTRODUCTION

## 1.1 ESCR in Global Context:

Economic, social and cultural (ESC) rights consists the human rights to adequate food, to adequate housing, to education, to health, to social security, to take part in cultural life, to water and sanitation, and to work.<sup>2</sup>

On 16 December 1966, the United Nations adopted the International Covenant on Economic, Social and Cultural Rights. This was the first global treaty that established legal obligations on states to protect a range of important economic, social and cultural rights. Forty years later the vast majority of States have ratified this treaty.

The articulation of ESCR in international law followed long-term demands for these basic rights by people worldwide. Those rights reflects the concerns for the life of every individual, particularly the most vulnerable whose human rights might be in peril, ESCR are expressed in many philosophical, religious and other traditions.

Around the world, the ESCR framework is used to bolster actions for justice and against oppression, and to amplify progressive alternatives to enhance the enjoyment of ESCR. Activists have brought legal cases before UN treaty bodies, courts and other dispute resolution bodies to demand change, documented and publicized recurring violations, mobilized communities, developed legislation, analyzed domestic budgets and international trade agreements to ensure compliance with human rights, and built solidarity and networks between communities locally and across the globe. ESCR unites women and men, migrants and indigenous people, youth and elders, of all races, religions, political orientations, and economic and social backgrounds, in a common realization of universal human freedom and dignity.

## 1.2 ESCR in National Context

The government of Nepal ratified the International Covenant on Economic, Social and Cultural rights (ICESCR) 1966 on 14<sup>th</sup> of May 1991 along with several other human rights instruments after restoration of democracy in Nepal with establishment of multi party system. The covenant was formulated on the principle of equality and non-discrimination in regard to the enjoyment of all the rights set forth in therein. The covenant further obligates States to take steps forward the full realization of these rights, and the ICESCR has itself stated that these must be “deliberate, concrete and targeted as clearly as possible towards meeting the obligations.”

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<sup>2</sup> UN Office of the High Commissioner for Human Rights. (2008). Fact Sheet No. 33, Frequently asked questions on economic, social and cultural rights. [Fact Sheet]. Retrieved from <https://www.refworld.org/docid/499176e62.html>

The Constitution Assembly (CA) promulgated an inclusive and human rights friendly constitution in 2015 which generated hope among the discriminated and excluded communities of Nepal including women, Dalits, ethnic (janajati), madhesis as well as freed Haliyas and Kamaiyas. But the rights provisioned in the constitution of Nepal have not been fully implemented. The previous conflict in Nepal was also due to the failure of the state to ensure and protect ESC rights. The socio-economic and cultural inequalities were the root causes of the armed conflict.

Nepal has been free from armed conflict by signing the Comprehensive Peace Agreement (CPA) in 2006, conflict to peace transition has led to a creation of a federal state. These movements were to make a radical change in the life of people ensuring and strengthening the human rights of the citizens. There is a need for economic and social justice and improved human rights situations to uproot the bases of conflict in the communities. Nepali people can utilize their civic, political, economical, social and cultural rights and are committed to creating an environment in which these rights will not be violated in the future under any circumstances (International Commission of Jurists, 2009).

The promulgation of Nepal's constitution 2015 has assured fundamental rights in different articles.<sup>3</sup> Under the new constitution, Part -3 Fundamental Rights and Duties, article 16 – 45 (Right to live with Dignity, Food, Education, Health, Labor, Freedom, Equality and others) includes the fundamental rights of the citizens, despite the fact that citizens are not aware about their fundamental rights.

For many Nepalese communities, the most important constitutional reforms are needed pertaining to the basic quality of life concerns including livelihood, food and water, health, housing and education. These needs are due to the extreme poverty and underdevelopment experienced by much of the population. Moreover, social exclusion, discrimination, violence, structural inequalities, corruption and lack of political will are among the major barriers to the realization of ESC rights in Nepal. Social and ethnic groups differentiate in the degree how their rights are respected. The community of Dalits, Haliyas and Santhals among the most marginalized, so called lower caste and deprived population are facing age old oppression through the imposition of a stratified hierarchical model.

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<sup>3</sup> Secretariat, C. A., & Durbar, S. (2015). Constitution of Nepal 2015. *Kathmandu: Constituent Assembly Secretariat.*

### 1.3 ESCR and UPR

The International covenant on Economic, Social and Cultural Rights (ICESCR) as well as International covenant on civil and political rights (ICPR) ratified by Nepal in 1991 are known as the twin covenants. The Nepal government has developed an action plan to monitor these rights in collaboration with NHRC and OHCHR on the implementation of the recommendations received from UPR. It is also practiced to file the Public Interest Litigation (PIL) to address the discriminations on the basis of the rights under the ICESCR covenant. The ICESCR covenant has been widely used by the NGOs as an advocacy tool in Nepal.

During the 2<sup>nd</sup> cycle of Universal Periodic Review of 2015, all together 18 recommendations were made on economic, social and cultural rights. Nepal supported all 18 recommendations. Out of 18 recommendations only one recommendation has been fully implemented (in Green color). 14 recommendations have been partially implemented (in Yellow color) and 3 recommendations have not been implemented (in Red color). Following are the recommendation on ESC rights supported by the Government of Nepal:

Table 1: Recommendations on economic, social and cultural rights during 2nd cycle of Universal Periodic Review of 2015

<b>Recommendations: Economic, social and cultural rights</b>	<b>Status</b>
<b>121.32</b> Continue its efforts in adopting development policies which meet the needs of the people and improve the standard of living of the citizens in order to protect and promote human rights (Yemen).	<b>Supported</b>
<b>122.20</b> Continue its implementation of the national plan of action on the provision of education for all, including for economically disadvantaged social groups (United Arab Emirates).	<b>Supported</b>
<b>121.22</b> Put emphasis on suicide prevention and support to these people and their families, taking into account the despair generated by such act (Haiti).	<b>Supported</b>
<b>123.25</b> Decriminalize the act of attempted suicide (Haiti)	<b>Supported</b>
<b>122.41</b> Take all necessary measures to ensure effective implementation of the Caste-based Discrimination and Untouchability Act of 2011 and to eliminate all forms of discrimination against women (Namibia);	<b>Supported</b>
<b>122.79</b> Continue to build on the successful programs for the creation of jobs and assistance to those most vulnerable, in the fight against poverty and social inequalities (Bolivarian Republic of Venezuela);	<b>Supported</b>
<b>122.80</b> Ensure implementation of legislation on the minimum wage in all sectors (South Africa);	<b>Supported</b>
<b>122.82</b> Ensure the freed bonded laborers' access to fertile land and their equal enjoyment of human rights, including the right to work and right to property, in line with the observations made by the Committee on Economic, Social and Cultural Rights (Finland);	<b>Supported</b>

<b>122.83</b> Continue its fight against poverty with the support and cooperation of the international community (Bangladesh);	<b>Supported</b>
<b>122.84</b> Continue to reduce poverty as a priority in the national development plan and improve the living standards of vulnerable groups (China);	<b>Supported</b>
<b>122.85</b> Apply in its periodic development plans a policy on poverty reduction aimed at social and economic justice (Cuba);	<b>Supported</b>
<b>122.86</b> Ensure effective implementation of its poverty alleviation policy as well as consider adopting a comprehensive national strategy to ensure food and nutrition security for its people (Malaysia);	<b>Supported</b>
<b>122.87</b> Persevere in its efforts to combat poverty and facilitate access to water for rural populations (Morocco);	<b>Supported</b>
<b>122.88</b> Adopt a comprehensive national strategy to ensure food and nutrition security for all in line with international standards (Ireland);	<b>Supported</b>
<b>122.89</b> Pursue its efforts with a view to facilitating access to housing for marginalized and low-income groups (Morocco);	<b>Supported</b>
<b>122.92</b> Improve access to affordable healthcare for all through the effective implementation of its policies and directives (Thailand);	<b>Supported</b>
<b>122.112</b> Collaborate with civil society, regional and global organizations to protect the rights of Nepalese migrant workers abroad (Australia);	<b>Supported</b>
<b>122.114</b> Continue to engage its partners with the view to build capacity and mobilize resources in support of its development efforts and in fulfilling its human rights obligations (Philippines);	<b>Supported</b>

Under the ‘Policies relating to Social Justice and Inclusion’ of the Constitution of Nepal (2015),<sup>4</sup> it has been envisioned to identify the freed bonded labors, Kamlari, Harawa, Charawa, tillers, landless, squatters and provide them with a housing plot for residence and cultivable land or employment for their livelihoods.<sup>5</sup>

Freed bonded laborers got land for their settlement and the land they received is not sufficient for the family to survive from the crops they can produce from that piece of land. Out of total 8,910, a total of 8,203 households were rehabilitated before the last fiscal (2016) after they were freed 11 years ago.<sup>6</sup>

<sup>4</sup> Article 51 (j) of the Constitution of Nepal, 2015

<sup>5</sup> National Coalition for UPR-Nepal. (2018). *UPR Mid-term Review Report Nepal*.

<sup>6</sup> National Coalition for UPR-Nepal. (2018). *UPR Mid-term Review Report Nepal*.

## 1.4 Rational of ESCR Year Book

The National Human Rights Commission (NHRC), Nepal has made great advances over the years in elaborating innovative methods to more effectively monitor economic, social and cultural rights. In coordination with the United Nations Office of High Commissioner for Human Rights and the Government of Nepal, NHRC have produced a User's Guide with Indicators for monitoring Economic, Social and Cultural rights.

Despite this, there is still lack of attention on ESC rights monitoring, in particular, concerning the documentation of the violations of ESC rights in Nepal that mirror inadequate attention by Human Rights System broadly. Many of the issues were reflected in UPR recommendations but they were generally framed in general terms because of a very superficial reporting on ESC rights at the National and International level. This clearly shows a need for documentation with evidence to effectively work on the ESCR issues.

To this context, CAHURAST-Nepal as an ESCR focused organization, felt an urgency to develop a Year Book for proper documentation of violation of ESC rights. The Year Book assesses the ESC rights situation of the chosen target communities. The findings documented in the Year Book work as the basis for advocacy to hold duty bearers accountable.

The concept of the 1st edition of Year Book in 2017 was to include the yearly facts and figures on Right to Health and Right to Education of community people of Dhading district as a pilot initiative. In 2017, the data and information was collected from the overall community of Dhading district. So, in 2018 with an aim to bring the policy level change through ESCR monitoring starting with one of the marginalized communities, Haliya Communities of Doti district was focused plus follow up monitoring in Dhading district as well. Haliya communities is one of the marginalized communities who are socially and economically deprived and are lagging behind to claim their rights and their literacy rate is also very low. Our implementing partners has been working in Doti district for the rights of the Haliya people so to observe the real scenario under the health and education sector of the freed Haliyas, the district was selected accordingly. Therefore, the 2<sup>nd</sup> edition of Year Book as ESCR Year Book 2018 included the facts and figures on the current situation of the rights to health and right to education of freed Haliya communities at the grassroots level.

The 3<sup>rd</sup> edition as **ESCR Year Book 2019** has been developed with the concept to analyze the ESC Rights focused on Haliya community of Doti and Dadeldhura districts, Santhal community of Morang district and Dalit community of Sarlahi district for rehabilitation package issues, landless issues and untouchability and caste based discrimination issues

respectively. Furthermore, the situation of the right to education and right to health has been analyzed to figure out gaps, to advocate with the Nepal government and the international human rights bodies to safeguard their rights.

Moreover, the Year Book will be a continuous action for proper documentation of ESC rights situation and advocate for implementation of ESC rights in Nepal. ESCR book constitutes the facts and figures which will be an evidence for advocating at the national level during 3<sup>rd</sup> UPR cycle. The issues of the target community will be presented during the 3<sup>rd</sup> UPR cycle to address their issues. In other words, ESCR book will be made use of as an advocacy tool for improving the human rights situation of Haliyas, Santhals and Dalits - the most marginalized communities in Nepal.

This Year Book can be used by researchers who are interested to know the ground reality of the implementation of committed rights and policies by the government of Nepal. It will also give the input to duty bearers to see their gaps in the implementation of the policy and law and furthermore, to create a favorable environment to strengthen the respect for the rights of the marginalized communities.

## 2. METHODOLOGY

### 2.1 Profile of Monitoring Area

#### 2.1.1 Monitoring location

Morang, Sarlahi and Doti districts have been chosen for the ESC rights monitoring of the target community - Santhals, Dalits and Haliyas respectively. The majority of Santhals are found in Jhapa and Morang districts and around 4% in Sunsari district. Terai Dalits are scattered all over the southern plain areas and hilly Dalits are found all over Nepal except very few high mountains districts. Majority of them live in mid-hill districts and terai districts. Haliyas live in 12 districts – Kailali, Kanchanpur, Dadeldhura, Doti, Achham, Bajura, Bajhang, Baitadi, Darchula, Mugu, Humla and Surkhet. LWF Nepal is implementing a Haliya Rehabilitation Project in Doti district and a Livelihood and Empowerment Project for Santhal in Morang district and Felm is implementing Community Enhancement Sustainable through Economic Upliftment Project for Dalit community in Sarlahi District. Both organizations have decades of experience working with Dalits, Sathals and Haliyas. During this period, it was realized that these three districts contain higher percentage of right holder settlements where needs in advocacy are particularly acute to claim their rights. In addition to these three districts during the project period, Dadeldhura was also chosen as one of the monitoring locations as Dadeldhura is one of the adjoining districts to Doti where a larger population of Haliyas resides.

***Morang District (Province 1):*** Morang district located in Province 1 is in eastern part of Nepal. It covers an area of 1855 sq.km with a population of 965,370 according to census 2011. One of the marginalized communities - Santhal community resides in this district. Rangeli Municipality, Dhanpalthan Rural Municipality, Kanepokhari Rural Municipality, Jahada Rural Municipality of Morang district have been selected for monitoring the issues of Santhal Community.

***Sarlahi District (Province 2):*** Sarlahi district is located at Province 2. According to new laws, a combination of more than 2 or 4 villages makes a Municipality. The district covers an area of 1259 sq. km and had a population of 635,701 in 2001 that has been increased to 769, 729 in 2011. Hariपुर Municipality, Hariwan Municipality and Lalbandi Municipality of Sarlahi district have been selected for the survey of the issues of Dalit Community.

***Doti District (Sudurpaschim Province):*** Doti district, with Silgadhi as its headquarter covers an area of 2,025 sq. km with a population of 207,066 in 2001 and increasing marginally to 211,746 in 2011. Joroyal Rural Municipality, Shikhar Municipality and Dipayal Silgadhi Municipality have been selected for monitoring at Doti District. The selected municipalities are highly dense with Haliya Community.

**Dadeldhura District (Sudurpaschim Province):** Dadeldhura district, a part of Sudur Paschim Pradesh is one of the seventy seven districts of Nepal. The district covers an area of 1,538 sq. km and has a population of 126,162 in 2001 and 142,094 in 2011. It's headquarter is Amargadhi. Amargadhi Municipality and Navadurga Rural Municipality of Dadeldhura adjoins the selected areas of Doti and is populated with Haliya Community. So, to cover the wider population of Haliya community, Dadeldhura has also been selected.

**GIS map of monitoring areas**

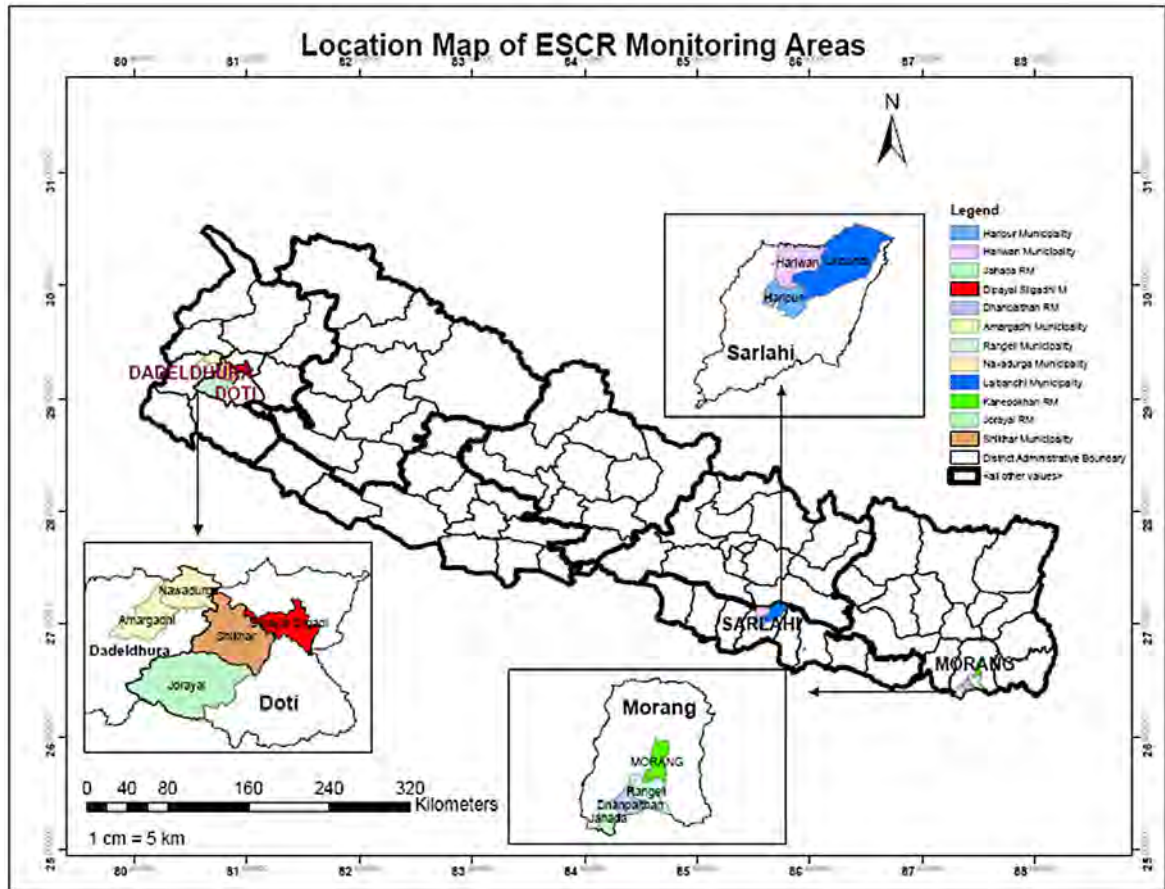


Figure 1: Location Map of ESCR Monitoring Areas

## 2.2 Description of target communities

From the monitoring locations- Sarlahi, Morang, Doti and Dadeldhura districts, Dalit community, Santhal community and Haliya community are chosen respectively. Within these communities the marginalized groups- women and people with disabilities (PwDs) face double burden of discrimination. As an exception to the Haliyas community, there is discrimination within Haliyas as well. Furthermore, some individuals are both Dalit and Haliya, which is why we draw attention also to multiple discrimination in context of Nepal.

### 2.2.1 Santhal Community

Santhals are indigenous group of community from the Terai belt of Nepal. The Terai is a lowland region in southern Nepal that lies south of the outer foothills of the Himalayas, the Siwalik Hills, and north of the Indo-Gangetic Plain. These communities are among the most marginalized communities of the Morang district as well as in the entire Nepal. Santhals live in the areas of Morang, Jhapa and Sunsari. Jhapa has the highest population of Santhals and Morang has slightly less. According to the National Population and Housing Census (NPHC), their population according to census 2011 is 51,735. They have been facing long term social exclusion from the economic, political, social and cultural domains of Nepalese society. Their social, cultural, political and economic presence is limited to the State apparatus. Along the line of social, political and economic exploitation, they are also left far behind in achievement of education and health. The literacy rate of Santhal is 48.30% which is lower by 17.60% compared to the National average (NPCS, 2014)

Santhals are primarily agricultural laborers. 86% of the Santhals depend upon the agricultural sources for their livelihood, 76% are landless, 64% are without ownership of house, 94% are without access to improved toilets and 75% lack access to public and basic health services.<sup>7</sup> Most of the Santhal communities are residing at non-registered and fallow land at the riverbanks and disaster prone areas that are vulnerable to floods each year. Moreover, they have (well-grounded) fears of removal from their places of residence by the government for occupying the government-owned land. They have not been able to raise their voices and the state has remained somewhat indifferent to their predicaments.

### 2.2.2 Dalit Community

*Dalits* are a so called 'untouchable' caste as per the caste system that still exists in Nepal. According to the official 2011 census, they constitute 13.6% of the total population (approx. 3.6 million people)<sup>8</sup>, but researchers and Dalit organizations assess that this number could be above 20% (approx. 5 million people). There are 26 sub-casts under the Dalit name and most of them live in mid-hill and southern plains. According to the Nepal Living Standards Survey (NLSS), 2004, more than 45% of Dalits fall below the poverty

<sup>7</sup> LWF Nepal. (2015). *Baseline study report*.

<sup>8</sup> Sunar, M. S., Bishokarma, K. B., Poudel, S., Nepali, P., Sushil, B. K., & Manabi, A. (2015). Human Rights Situation of Dalit Community in Nepal.

line. This poverty is due to the fact that 35% of Dalits are landless and they do not have access to natural resources, which is why almost half the Dalit households are in food insufficiency (two meals per day throughout the year). The majority of their livelihood depends on elementary and traditional occupations that have been severely affected by the modernization of the national economy. Most of the Dalits from rural area are migrating to urban area and as well in gulf countries for employment opportunities due to which modernization influences the traditional way of living and traditional occupations are disappearing from the society.

The caste based discrimination is still prevalent in the society even though the government declared Nepal ‘an untouchability free nation’ in 2006.<sup>9</sup> The government of Nepal accepted the UPR recommendations in 2015 that all the cases of caste-based discrimination will be criminalized. Though all these acts are criminalized by the law, there has been no case so far of non-dalits being punished for practicing such acts.

### 2.2.3 Haliya Community

Haliya is a system of bonded labour in the agriculture sector prevailing in western hill districts of Nepal. 97% of haliyas are from the hill Dalit group while the rest are from marginalized ethnic groups. Haliya are those who served as agricultural bonded laborers for landlords to till the land and undertook heavy manual labor (*UNRHCO June 2011*). Haliyas used to work for landlords to repay the debts taken by their forefathers. The Haliya system was abolished by the Government of Nepal in 2008, thus freeing all the Haliya families from debt and the system.

There are altogether 19059 freed Haliyas listed in the government record from 12 districts of Karnali and Sudurpaschim Provinces. The Government of Nepal (GoN) had committed to provide rehabilitation packages to all the verified freed Haliya by the end of last fiscal year 2017/2018. However, the government failed to accomplish the rehabilitation processes as per its commitment. By the end of the fiscal year 2017/18, 72.14% of the freed Haliya have received rehabilitation packages by the government (MoLMCPA, 2018). Freed Haliya leaders claim that there are around 25,000 freed Haliya are still unregistered and thus are non-existent in the official records.

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<sup>9</sup> INSEC. (2019) *Nepal Human Rights Yearbook* (1st ed.). Kathmandu, Dream Graphics Press.





Meeting with Santhal Community of Laxmipur, Rangeli Municipality in Morang District



Meeting with Dalit Mushahar Community of Jutepani, Hariपुर Municipality in Sarlahi District

## 2.3 ESC rights monitoring approach

### 2.3.1 Developing monitoring questionnaire

During developing the questionnaire, major consultation was done with the right holders' organization. Some of the prevalent issues highlighted by right holders are unequal political representation, land rights, meaningful leadership, discrimination in accessing resources and services. Similarly, just and timely rehabilitation of ex-Haliyas, caste-based discrimination and untouchability for Dalits was also highlighted. Moreover, citizenship, unproportional representation in government and private sectors are some of the major issues that have been raised by these right holders. Covering all these issues, key issues on the basis of target groups - discrimination and untouchability of Dalits, timely and just rehabilitation for freed Haliyas and land rights for Santhals have been identified as the most prominent issues.

Therefore, based on these issues the questionnaire has been developed with focus on right to education, right to health and issues of the target community. The questionnaire has been structured as a set of questions for individuals, communities and institutions. In the individual set of questions, respondents are the individuals representing each household/community leaders of the target community. Similarly in a group set of questions, respondents are representatives of local community groups and the health sector. Likewise, for an institution set of questions, respondents are from Ward Office/Municipality/District/NGO/INGOs and from school, Teachers/Principal/School Management Committee.

### 2.3.2 Community Monitors mobilization for ESC rights monitoring

The community people from the target groups are developed as community monitors through a series of training. To obtain the ground information, the community monitors were selected from the target groups and were trained. Three batches of ToT training have been conducted in respective districts and around 23-30 participants were present. Out of which, one community monitor was selected from each target group, then they were further trained to use the ESCR Mobile App. These monitors were mobilized in the respective district to monitor the situation of ESC Rights of target groups (rehabilitation package issues of Freed Haliya at Doti and Dadeldhura districts; Caste based discrimination and untouchability issues of Dalits at Sarlahi district and land rights issues of Santhals at Morang district.)

### 2.3.3 ESC rights monitoring with use of ESCR mobile App

ESCR mobile app was launched on 20th December 2017. This app developed as a learning tool and data collection/monitoring tool is used by the community monitors for monitoring ESC rights situations (see Figure 3). As a part of the learning platform, through this app, anyone could learn about ESCR through constitutional provisions focused on right to health and right to education and also how SDG aims to achieve ESCR. At the same time, the trained monitors used ESCR mobile app to collect the data of the target group from the ground.

The ESCR Monitoring App has various features and information. The home screen is the main screen of this App. At the bottom of the screen, four sections can be seen, namely: Learn, Monitor, About, Profile. The Learn part of this app is all about ESCR (Economic, Social and Cultural Rights). Learning ESCR is categorized as learning how SDG (Sustainable Development Goals) aims to achieve ESCR and learn ESCR through Constitutional Provisions on Health and Education.

Sustainable development is well described in this app in the section: Good Health and Well-being and Quality Education. Also the Constitutional Provisions relating to the Constitution of Nepal 2015 have been listed as Fundamental Rights and Duties and Directives, Principles, Policies and Responsibilities.

The monitor section is used by the monitors. New monitors can be registered through the registration process by clicking on the **Send Request** button. The necessary information should be filled to send a **registration request**. If the monitor is already registered, he/she can simply **log in** with the login credential (username and password).

The about section is all about the ESCR app where there is a short description of the app and about the CAHURAST.

The profile section displays the current logged in user information. The information includes profile picture, username and user email address.



Figure 2: Front version of ESCR App

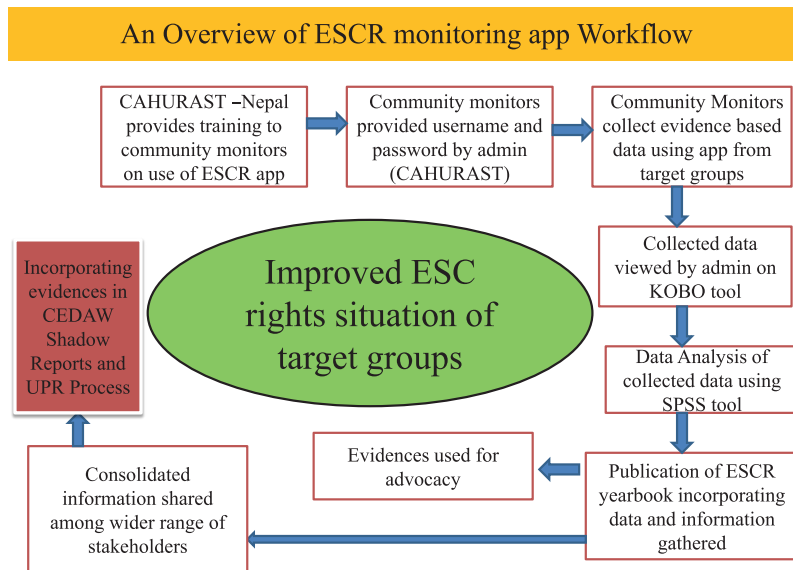


Figure 3: The workflow of data gathering through the monitoring app

## 2.4 Data Collection

### 2.4.1 Data Source

Primary data were collected through semi-structured questionnaires focused on right to health, right to education and issues based on the rights of the target groups of Morang, Sarlahi, Doti and Dadeldhura districts. For the triangulation of facts and figures, 1604 respondents were surveyed from the Haliya community (1560 individuals/households, 12 community groups and 32 institutions). Similarly, 1382 respondents from Dalit Community (1318 individual/households, 21 community groups and 43 institutions) and 855 respondents from Santhal Community (772 individual/households, 35 community groups and 45 institutions).

National report, national census, government records, websites, newspaper articles, published sources and books were used as sources of secondary data.

### 2.4.2 Data Collection tools and techniques

Three sets of semi-structured questionnaires related to the right to education, right to health, and issues based rights of the target group of Morang, Sarlahi, Doti and Dadeldhura districts were developed for the survey. These questionnaires are categorized into three sections based on the issues of Haliyas, Dalits and Santhals and were asked to the individual/households, community groups and institutions. Quantitative data was collected by the trained community monitors using ESCR Mobile App that were preloaded with the survey questionnaire in Nepali and English language. The monitors can select their preferred language for the survey. ESCR Mobile App is an online/ offline tool. After the completion of form with all the information, the monitors will upload the collected data daily through the internet. The submitted data directly comes to the central server system and can be viewed in the KOBO tool. Altogether, the data were collected from 3841 respondents.

Qualitative data was gathered through the focus group discussions and consultative meetings. For Qualitative data, group discussion and meetings were conducted in two districts by the team members. In Morang district, Santhal community of Laxmipur, Rangeli Municipality were involved and discussed on the related issues like toilet card, old age allowances, citizenship and tenant rights problem. Similarly in Sarlahi district, Dalit Mushahar community from Jutepani of Hariपुर Municipality was involved in the discussion. They focused on the issues of citizenship as the government builds 27 houses out of 35 and remaining 8 houses could not be built due to lack of the citizenship of the family member. Further, some children could not go to school because of not having birth certificate and citizenship. As a part of data protection, the verbal consent was taken before taking the pictures and interviews. Similarly, the data privacy was maintained with not disclosing the data.

**Table 2: Total number of data collected from target community**

District	Target Community	Total data collection	Individuals/ households	Community groups	Institutions
Doti	Haliya Community	1604	1560	12	32
Sarlahi	Dalit Community	1382	1318	21	43
Morang	Santhal Community	855	772	35	45

## 2.5 Sampling

Purposive random sampling was done with three sets of questionnaires based on the issues of target groups. The samples were taken from the areas of the district where the majority of the target group resides. Respondents were chosen based on the interest of the research where the ones who increase the credibility specially, head of the family or who could provide information. In total, 1604 data of Haliya community has been collected from Joroyal Rural Municipality, Dipayal Silgadhi Municipality, Shikhar Municipality of Doti district and Amargadhi Municipality, Navadurga Rural Municipality of Dadeldhura District. Similarly, 1382 data were collected from Dalit community of Haripur Municipality, Hariwan Municipality and Lalbandi Municipality of Sarlahi District whereas 855 data were collected from Santhal community of Rangeli Municipality, Dhanpalthan Rural Municipality, Kanepokhari Rural Municipality and Jahada Rural Municipality of Morang District.

## 2.6 Ethical Consideration

During this research monitoring work, “Do No Harm”-approach was strictly followed. It was ensured that the respondents will not have any trouble because of our research program. We had taken into consideration the rights of privacy of respondents. Considering the “Do No Harm” principle, we have practiced some of the following activities:

- Before the start of each interview, verbal consent was taken during the interview and photo/video was taken.
- Questionnaires were asked in local languages and in a safe, supportive manner that respects confidentiality.
- Paying attention to gender differences.

## 2.7 Data Analysis

Data analysis is fully based on information gathered by the community monitors via monitoring ESC Rights in the selected areas. The data were collected based on the following prominent issues of the target group:

- timely and just rehabilitation for freed-Haliyas,
- caste based discrimination and untouchability for Dalits and
- land rights for Santhals

Under these issues, below listed questionnaire were developed:

1. What is the situation of the ESC rights of Haliyas, Dalits and Santhals - focused on the right to health, right to education, right to timely and just rehabilitation, right against caste based discrimination and untouchability and right to land?
2. What forms of discrimination are faced by the Dalits?

An extensive sample of primary data has been generated during the monitoring period. The collected raw data in the Kobo tool was adjusted and processed by SPSS (Statistical Package for the Social Sciences) software and Excel. Analysis has been presented as per the questionnaire designed. Selective questionnaires were used which reflects the main issues of the target groups for the data analysis.

The information collected from the field was first compiled, followed by editing, cleaning, grouping, coding and analyzing. For quantitative data, frequency and percentage have been used. Thus, obtained results were represented through pie-chart and bar graphs. On the other hand, for qualitative data, the obtained results were initially abstracted from Kobo tool to Excel sheet. After that, the data were cleaned up by deleting unnecessary and blank data. Then the data were reviewed and adjusted where there is need of editing. Next, the similar response and answer were first categorized with different heading and those who provided similar answer were coded as 1, 2, 3 respectively. After coding, through SPSS software frequency and percentages were calculated and on need basis represented through graphs. Mostly, qualitative data and information which are gathered through survey are used to support the quantitative data. Case stories were also collected and reported.

### 3. KEY FINDINGS/ ANALYSIS

The key findings on right to education, right to health and issues of the target group are as follows:

#### 3.1 Right to Education

This monitoring program somehow tried to analyze the actual condition of right to education of the Freed Haliya, Dalits and Santhal community in their respective localities. To support and explore facts on the right to education of the respective target groups at ground level, following facts and figures have been generated.

##### Distance to the school from the target group cluster

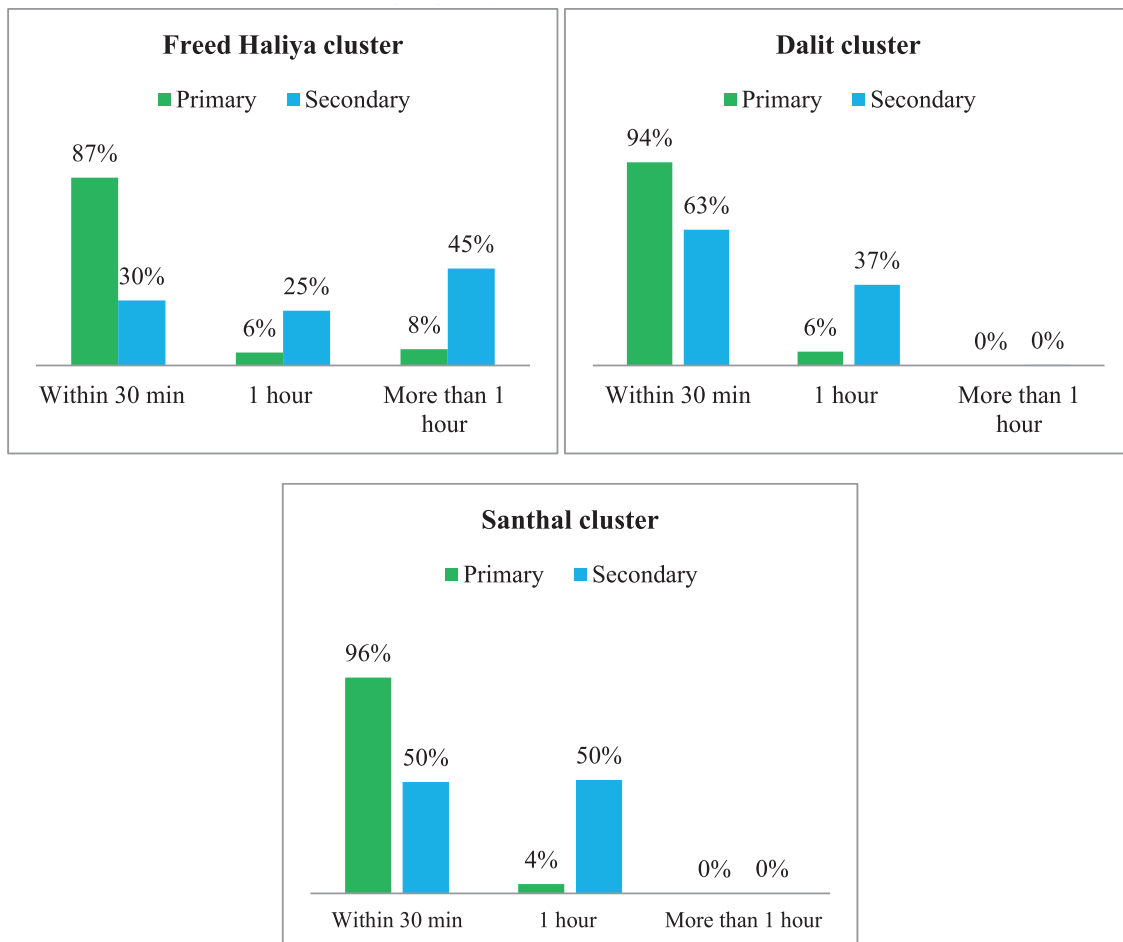


Figure 4: Distance to the school from the target group cluster

The above figure 4 shows the distance of the school from the target groups cluster - freed Haliya, Dalits and Santhals. Still 8% and 45% of Haliyas have to travel more than 1 hour

to reach primary schools and secondary schools respectively. Majority of Haliyas could reach the primary schools within 30 minutes' time duration. Comparatively, none of the Dalits and Santhals has to travel more than 1 hour to reach the primary and secondary schools and more than 95% could reach the schools easily within 30 minutes.

### Students drop out from the school

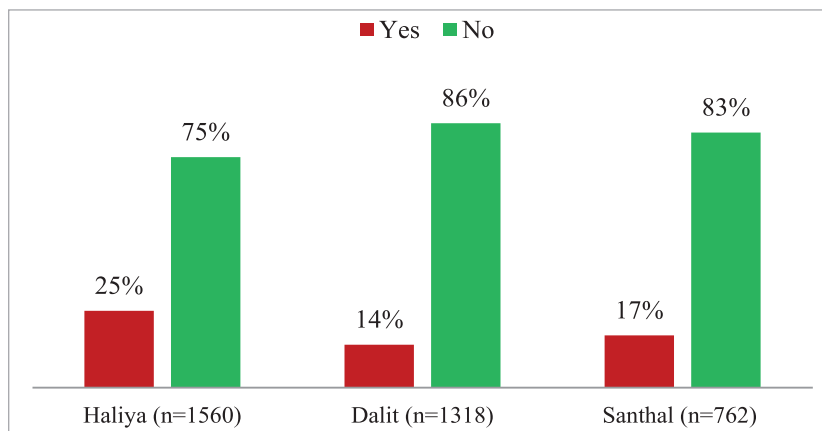


Figure 5: Number of drop out students

The Government of Nepal has the provision of providing free education but despite this provision and the schools of project districts being located within 30 minutes, the students used to drop out from the school. In national level approximately, 4.8% of students are dropout schools every year<sup>10</sup>. Our finding also shows in figure 5 that 25% Haliya children, 17% Santhal children and 14% Dalit children are being dropped out of the school. The reasons behind drop out are poor economic conditions and lack of awareness on the importance of education. In the context of girls students, early marriage and lack of gender friendly toilets are the main reasons for the drop out case.

<sup>10</sup> Devkota, S. P., & Bagale, S. (2015). Primary Education and Dropout in Nepal. *Journal of Education and Practice*, 6(4), 153-157.

### 3.2 Right to Health

The monitoring program tried to find out whether there is prevalence of Caste Based Discrimination at Health Posts/Centers and public water points. Moreover, the aim is also to access the information of the toilet facilities, maternity date rate from the target groups. Some facts and findings generated from the ground level on right to health have been presented in the following figures.

#### Caste Based Discrimination at Health Posts/Centers

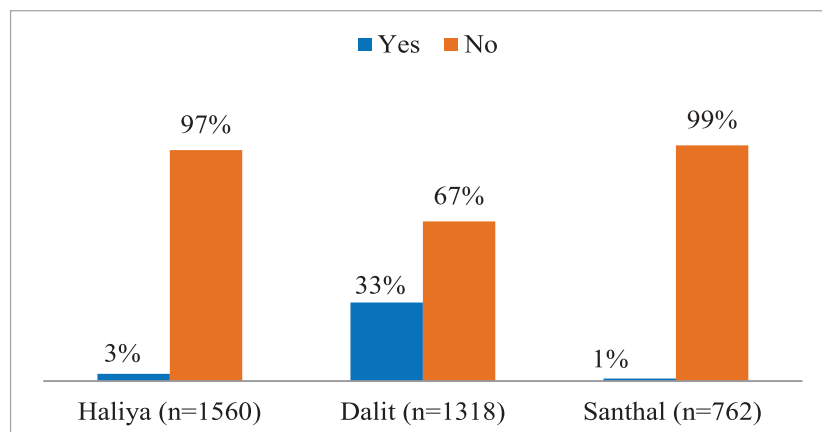


Figure 6: Caste Based Discrimination at Health Post

Every citizen has equal right to access to the health service and there should not be any discriminations and restriction in treatment. However, people face discrimination in health post especially by Dalits. Our findings shows in figure 6 that 33% of Dalits are still facing discrimination in the health post in compared to Haliya and Santhal community with only 3% and 1% respectively. Among the 33% Dalits, 26.8% faced negligence in treatment, 18% got less priority for treatment, and 7.4 % needed to wait longer than other community people and 13.4% were not getting medicine properly from the hospital and had to buy it from another place.

### Toilet facilities at target groups home

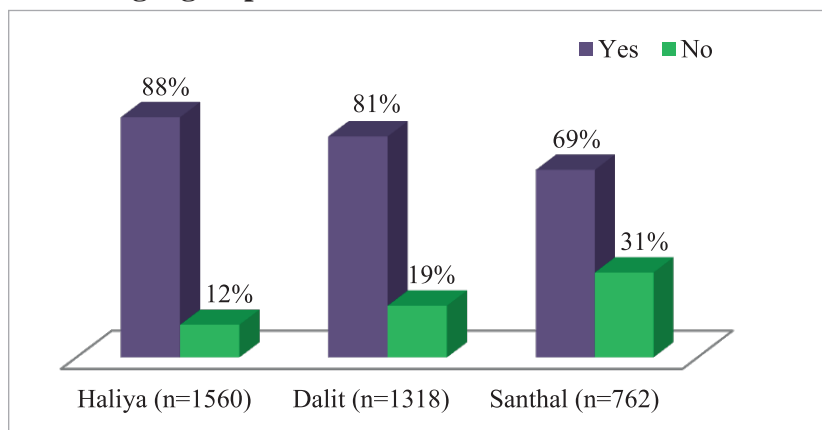


Figure 7: Toilet facilities

Nepal declared ‘Open Defecation Free’ country on 30<sup>th</sup> September, 2019.<sup>11</sup> Unfortunately, our findings shows in figure 7 that still 31 % (n=238) Santhal communities of a single district Morang don’t have access to toilets as they don’t have their own land to build toilets and the land owner does not permit to build toilets on their land. Similarly, 19% (n=257) of Dalits and 12% (n=186) of Haliya mentioned that they don’t have access to toilet facilities. An accessibility of toilet facilities should be a prime concern of the local government as it is linked with basic human rights i.e. health and sanitation.

### Incident of maternity death

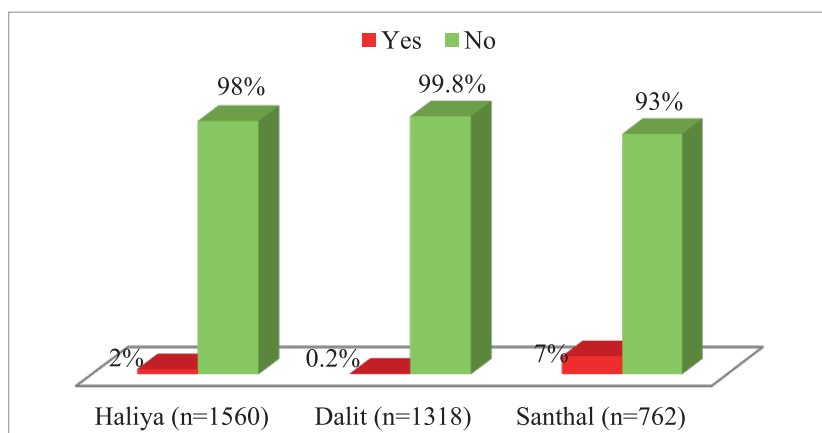


Figure 8: Incident of maternity death

Maternity death is one of the prime concerns in the aspects of right to health. In regards to this, 7% of the Santhal community expressed that they have faced the incident of

<sup>11</sup> Nepal has Been Declared “Open Defecation Free”. (2019). Retrieved from <https://www.gwt.org.uk/news/nepal-declared-open-defecation-free/>

maternal death in their family which is high in comparison to other communities (2% in the Haliya community and only 0.2% Dalits community). Such incidents have occurred due to inadequate health care, lack of family planning, need to travel long distances to get medical facilities, early marriage and complications during the pregnancy. This difference in percentage signifies Santhal women are more vulnerable than the women of Haliya and Dalit community. Extreme poverty and lack of access to public and basic health services in the Santhal community are other reasons behind it. To reduce maternity death, adequate health facilities, continuous supply of medicine and ensure the availability of qualified health personnel especially midwives is very important in the rural part of Nepal.

### Discriminations faced by target groups at public water point

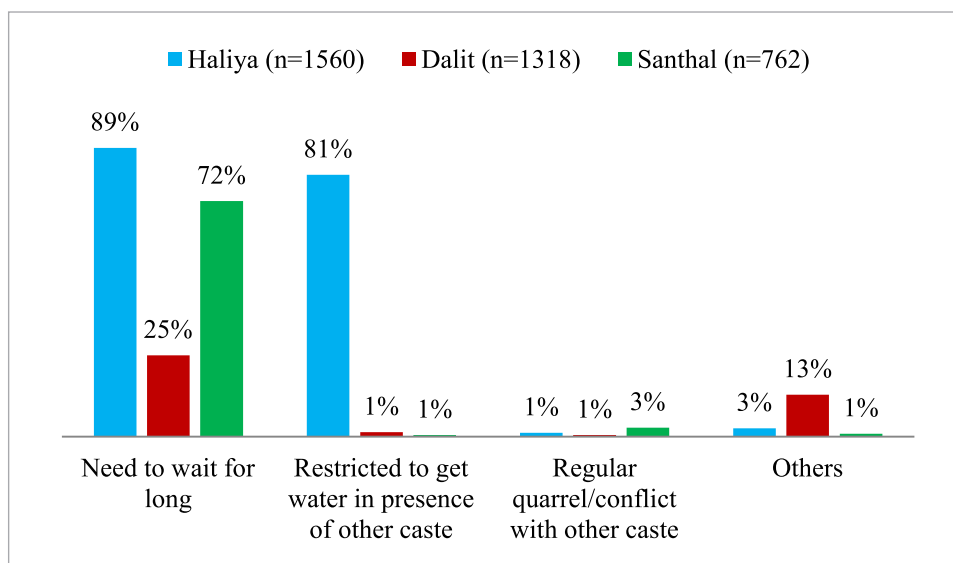


Figure 9: Discriminations faced at public water point

Discrimination generally done by the upper caste to lower caste in context of Nepal specially at public water points, religious temples, accessing public services. Our finding in above figure 9 shows that Haliya community has faced discrimination especially at the public water point. On discrimination, 89% of Haliyas belonging to the lower caste expressed the need to wait for a long time in a queue to fetch water as most of the Haliya communities belong to Dalit community and 81% are restricted to get water in the presence of other caste people. Similarly, 72% of Santhals and 25% Dalits expressed that they need to wait for a long time in a queue to fetch water.

### 3.3 Issues of Target group

#### 3.3.1 HALIYA: Right to timely and just rehabilitation

The Government of Nepal announced that a rehabilitation package would be provided to each freed Haliya household (grant for land purchase, construction/repairing of houses) in 2009 and during the 2nd cycle of the Universal Periodic Review (UPR) in November 2015. Therefore, to overview the ground scenario and to collect the evidences and issues of freed Haliya for the advocacy, the study was carried out in Doti and Dadeldhura districts.

To collect the facts and figures, in total 1560 Freed Haliya respondents were involved in this survey. Out of which, 44% were male respondents and 56% were female respondents.

#### Major occupation of family members of Freed Haliya Community

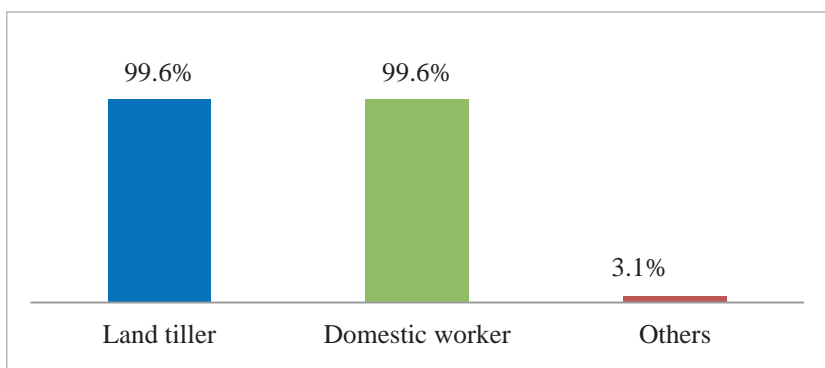


Figure 10: Major occupation of Freed Haliya

Haliya system is a bonded labor system who works as bonded labor at their landlord's place due to debts taken by their forefathers. The literacy rate of this community is very low as a result, 99.6% (i.e n=1553) respondents involved in the survey mentioned that their major occupation is land tiller and domestic worker and 3.1% (n=49) are involved in field and labor work.

#### Haliya Families working as Haliya due to remaining debt

The Haliya system was already abolished by the Government of Nepal. However, our research conducted in Doti and Dadeldhura on Haliya community showed that 1% of 1560 respondents expressed that they are working as bonded labor (Haliya) to pay the debts taken by their forefathers. This is because of their poor socio-economic status.



Figure 11: No. of Haliya family working as Haliya

### No. of Haliya family received Freed Haliya ID card

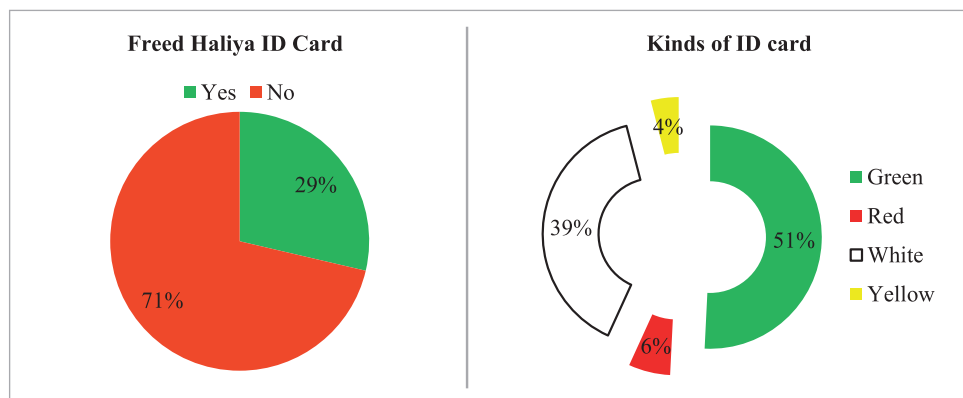


Figure 12: No. of Haliya family received Freed Haliya ID card

The Government of Nepal has distributed the Freed Haliya ID card to recognize the Haliya people and to distribute rehabilitation packages after abolishing the Haliya System but only few Haliyas were able to receive it and many of them are still remaining to be recognized as Haliyas. As shown in the above figure 12, 71% (n=1113) Haliyas still remained to receive the Freed Haliya ID card whereas only 29% of Haliya families have already received it. They are not being even recognized as Haliya which is hindering them to receive rehabilitation packages. Some of the Haliyas are still working as bonded labor and some of them are forced to return to work as Haliya due to lack of employment opportunities and income sources. Within 29% (n=447), 51% (n=227) Haliya families have received Green Freed Haliya ID cards. Likewise, 39% (n=175) have received White color, 6% (n=27) received Red color and 4% (n=18) received Yellow color respectively.

Table 3: Categorization of Government of Nepal rehabilitation packages

Category	Type of card	Rehabilitation package
A	<b>Red Card</b> No land and no house	Total NPr-525,000 • Land purchase- 200,000 • House construction -325,000
B	<b>Yellow Card</b> Have house no land	Total NPr-200,000 • Land purchase -200,000
C	<b>Green Card</b> Have land no house	Total NPr-325,000 • House construction -325,000
D	<b>White Card</b> have both land and house	Total NPr-125,000 • House repair and maintenance-125,000

### No. of Freed Haliya family received Government Rehabilitation Package

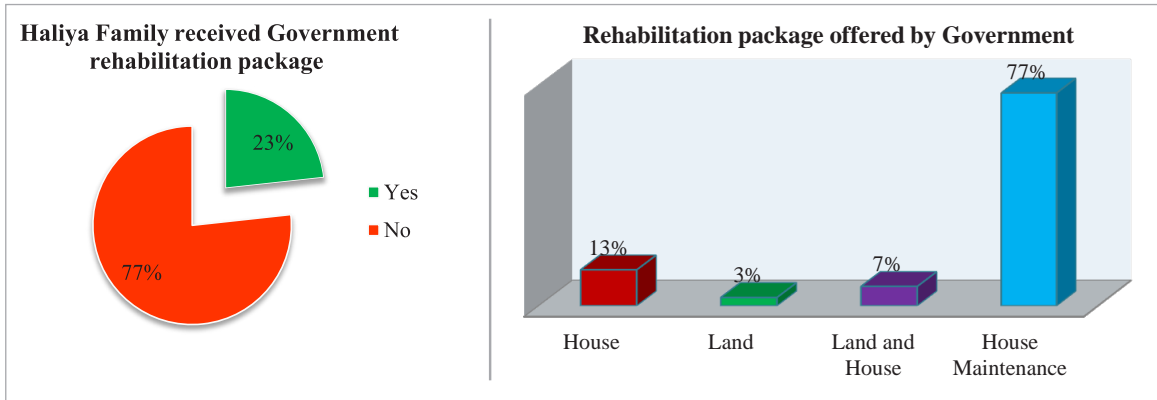


Figure 13: No. of Freed Haliya Family received Government Rehabilitation Package

The Freed Haliya families who have received the Freed Haliya ID card were unable to receive rehabilitation packages. The above analysis shows that 77% (n=1197) families are still remaining to receive the Freed Haliya rehabilitation package. Out of 29% (n=447) Haliya families who have received the Freed Haliya ID card only 23% (n=363) Haliya families were able to receive rehabilitation packages, remaining 6% have registered their name.

Out of 23% (n=363) Haliya families who have received government rehabilitation package, 13% (n=48) have received house as rehabilitation package, 3% (n=10) have received land, 7% (n=25) have received land and house and remaining 77% (n=280) have received rehabilitation package for house maintenance.

### Reasons behind not receiving rehabilitation package

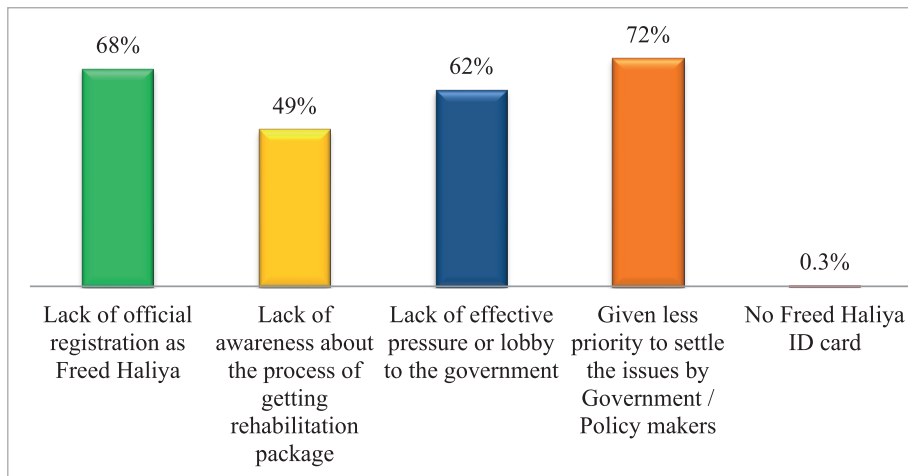


Figure 14: Reasons behind not receiving rehabilitation package

As stated by the Haliya families who were involved in this survey, the following are the

reasons that freed Haliyas were unable to receive their rehabilitation package:

- Given less priority to settle the issues by Government/Policy makers (72%)
- Lack of official registration as Freed Haliya (68%)
- Lack of effective pressure or lobby to the government (62%)
- Lack of awareness about the process of getting rehabilitation package (49%)
- No Freed Haliya ID card (0.3%)

### Problems faced by Freed Haliya family after receiving rehabilitation package

The Government of Nepal has provided rehabilitation packages to the Haliya families after the declaration of Haliya being freed from bonded labor but still the freed Haliya families who have received rehabilitation packages are facing problems. As shown in the figure15, out of 23% who have received the package, 4% (n=66) responded that they are facing problems. Following are the problems faced by the freed Haliya families after receiving rehabilitation package:

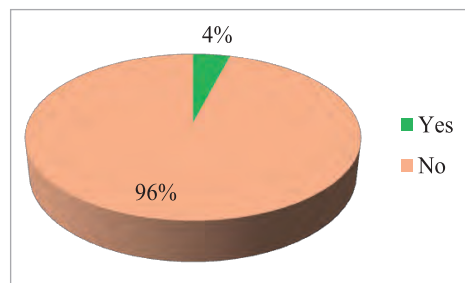


Figure 15: Problems faced by Freed Haliya family after receiving rehabilitation package

- 61% response that the installment is being late (n=40)
- 31% response that the money is insufficient to build house (n=21)
- 8% response that the land is insufficient (n=5)

### Awareness about Freed Haliya policy and process of getting rehabilitation package

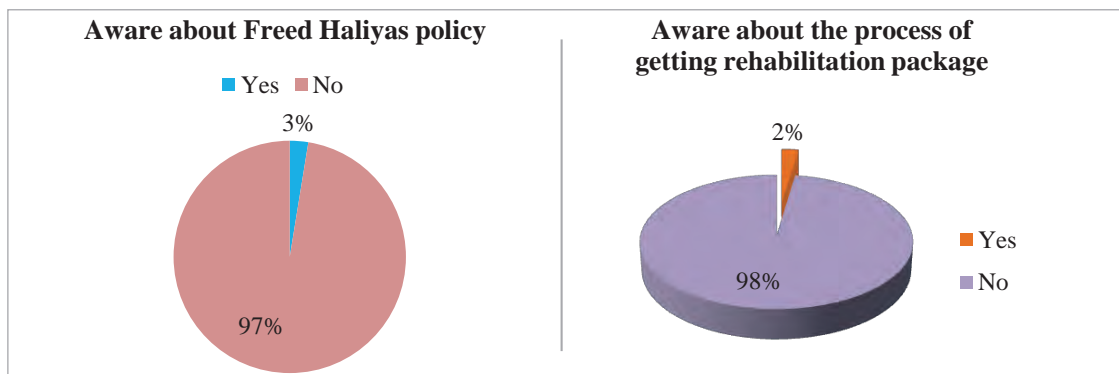


Figure 16: Awareness about Freed Haliya policy and process of getting rehabilitation package

The Government of Nepal has made different plans and policies for the rights of the Haliya people after the abolishing of the Haliya System and distributed Freed Haliya rehabilitation packages but many Haliya people did not know about these policies. The survey showed that 97% of Haliya families were unaware about the freed Haliya policy and their rights. Similarly, 98% of the families are unaware about the process of getting rehabilitation packages due to which 1197 Haliya families are still being left for receiving a Freed Haliya rehabilitation package.

**Register complaint in the court against the government regarding failure to get the rehabilitation package:**

Total 1560 Haliya families were surveyed regarding issues of Freed Haliya in this survey. Out of 1560, 77% (n=1197) Haliya people have not received rehabilitation packages but still no one has registered any complaints against the government regarding failure to get the rehabilitation package.

Despite the government's commitment to provide rehabilitation packages, Freed Haliyas are still not able to receive the packages. This monitoring program found that, out of 1560 Haliya, 1197 Haliyas have yet to receive the rehabilitation packages and 1113 Haliya families are deprived of receiving the Freed Haliya ID cards. Even after having the laws, they were not fully implemented at the ground level. That is why there is a strong need for advocacy to claim the rights of the targeted groups and the government should build a strong lobbying mechanism to identify the Haliya and distribute the rehabilitation packages.

### 3.3.2 DALIT: Right against untouchability and discrimination

This survey examined the actual condition of the Dalits community regarding the untouchability and discrimination at the ground level. The government declared Nepal an untouchability free nation but in practice caste-based discrimination and untouchability practices are rampant all over the country.<sup>12</sup> It is somehow minimized in urban areas but it is still common practice in rural areas.

Though all the discrimination acts are criminalized by the law, there have been no cases so far of non-dalits being punished for practicing such acts. Therefore, to find out what is the realities of caste-based discrimination in the ground level and to collect the evidences for the advocacy, issues based questionnaire were developed and analysis have been made accordingly.

For the survey, in total 1318 Dalit community people were involved. Out of which 34% were male respondents and 66% were female. There were greater numbers of female participation in the survey because at the time of data collection male were away from their home for work.

#### Awareness regarding Dalit policy

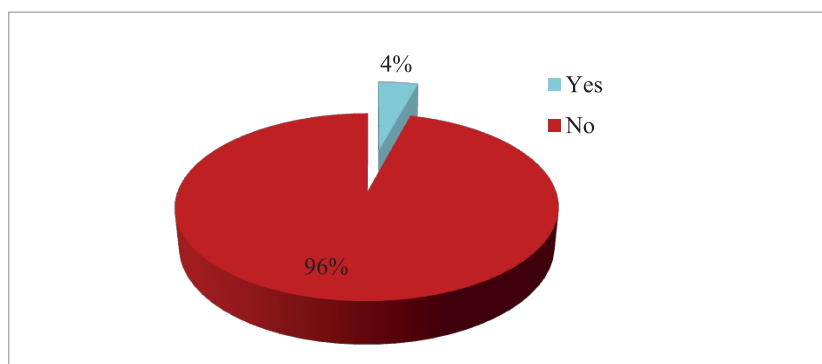


Figure 17: Awareness regarding Dalit policy

After Nepal has abolished the caste based discrimination and untouchability system, numbers of laws and policies were made for Dalits welfare. The laws and policies have remained only in the constitution as Dalits frequently had to face severe discrimination and violence. One of the major causes is lack of knowledge on existing Dalit policy and laws. Our findings also show that 96% Dalits are unaware about their rights and policy. These have hindered them to claim their rights and are facing discrimination by so called upper caste in their daily life.

<sup>12</sup> Nepal's Civil Society Alternative Report. (2018). Caste-Based Discrimination and Untouchability against Dalit in Nepal. Retrieved from <https://idsn.org/wp-content/uploads/2018/07/CERD-Nepal-2018-alternative-report-Dalit-situation-.pdf>

### Discriminative behaviors faced by Dalit community

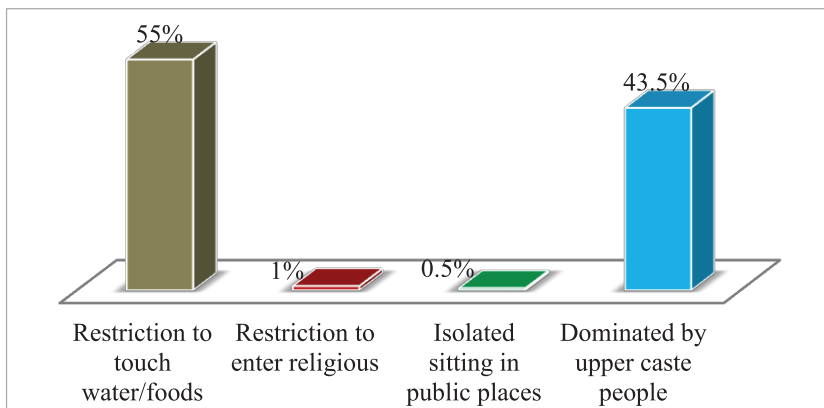


Figure 18: Discriminative behaviors faced by Dalit community

Dalits have been facing different forms of discrimination from a long decade and still it is prevalent. Even though there is a provision that the person who practices discrimination will be punishable by law, Dalits continues to face severe discrimination in the society. Comparatively, caste based discrimination are more prevalent in rural areas rather than urban areas. Our survey shows that 55% Dalits are restricted even to touch water/foods which are the extreme condition and 43.5% are dominated by upper caste people in the form of humiliation and use of bad word in front of others for being lower caste.

### Atrocities that Dalits are facing because of getting married with Non-Dalit

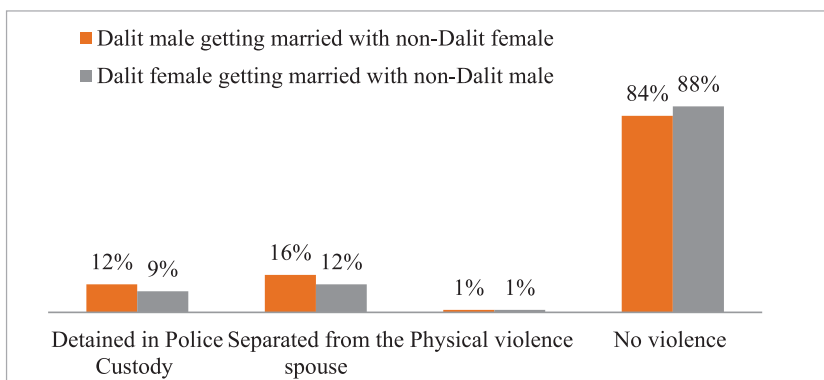


Figure 19: Atrocities that Dalits are facing because of getting married with Non-Dalit

In the context of Nepal, there comes a big issue when the lower caste gets married with the upper caste and vice versa. Very rare cases are found where society accepted the marriage of Dalits with non Dalits. Now, society has started to accept such marriages. But in majority, such marriages are not accepted and they become victims of physical violence, harsh words, had to remain in police custody for years. Even our findings in figure 19 shows that 12% of male Dalits married with female non-dalits are detained in Police Custody. Similarly, 16% Dalits were separated from their spouse and 1% had gone through physical torture. 84%

mentioned that they haven't heard any atrocities against Dalits male. Same is with female Dalits marrying non-Dalits male, 9% were detained in police custody, 12% were suffering from the separation from their spouse and 1% responded to physical violence against her whereas 88% respondents said that they haven't heard any atrocities against Dalits female.

**Equal wages receive compare to Non-Dalits**

Dalits are regarded as so called lower caste in Nepal. They have been relegated to do caste-based works which are considered of low social status. They are forced to continue to do their traditional occupation due to poverty and low income source. Dalits who are able to involve in wage earning jobs suffer from an unfair wage system as compared to non-Dalits. Specially, Dalit women get lesser wage than Dalit men.<sup>13</sup> As shown in figure 20, 13% of respondents said that they did not receive equal wages compared to other castes and 87% said they had received equal wages.

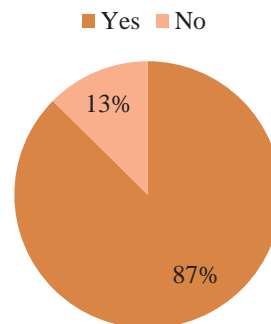


Figure 20: Equal wages receive compare to Non-Dalits

**Selling products without discrimination**

Untouchability and caste based discrimination are more practice in the rural area but while selling the product, our survey found that Dalits people did not faced any discrimination. However, as shown in figure 21, only 1% feels of being discriminated in selling their products for being Dalits. Upper caste people normally use bad words, force to sell their products in cheap amount and even used to throw their products in anger. Whilst 99% respondents said that they can sell their product without any discrimination.

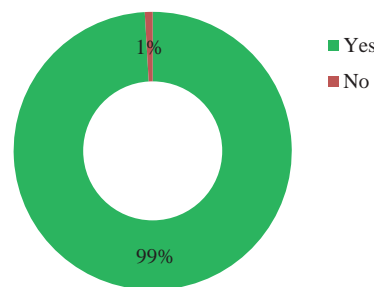


Figure 21: Selling products without discrimination

**Incidents of Gender Based Violence (GBV)**

Gender based violence occurs as a result of the normative role expectations associated with each gender, along with the unequal power relationships between genders, within the context of a specific society. Dalits face untouchability and discrimination in their daily lives in compared to the upper caste family. Untouchability and discrimination have been a key issue for other problems like domestic violence, rape cases, dowry-related violence, witchcraft accusations, trafficking of women and girls for sexual exploitation.

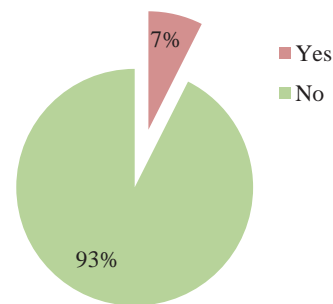


Figure 22: Incidents of Gender Based Violence

On our findings of GBV, as shown in figure 22, it shows that 7% within Dalits have experienced GBV.

<sup>13</sup> Shrestha, A. (2002). Dalits in Nepal: Story of Discrimination. Asia-Pacific News, 30(2), 332-342 Retrieved from <https://www.hurights.or.jp/archives/focus/section2/2002/12/dalits-in-nepal-story-of-discrimination.html>

*Maya Bishwokarma, involved in collecting household data from Gauriganga Municipality, Kailali, was gang-raped by five of her co-workers last year. She repeatedly refused sexual advances of her co-workers. Unfortunately, they raped her and killed her.*

*Similarly, 18 years old boy Ajit Mijar was murdered after he married a woman from another caste. Within a week of their wedding, his dead body was found buried on the riverbank of Furke Khola in Dhading district.<sup>14</sup> In most cases, most often, when a Dalits marries upper caste, punishment is target to boys/men.*

In above both cases, there is one common thing i.e both victims are from the Dalit community. Therefore to find out the ground reality, the Dalits were asked regarding the violence cases that occurred in their community. As a result, it came to know that 1% Dalits responds that they have heard the case of murder against Dalits in their community while 10% mentioned that Dalits used to get beating /hitting. Hence, being a citizen of the Dalit caste, they have been facing discrimination and physical violence in every step of their life.

In the Constitution of Nepal, it is stated that “No person shall be treated with any kind of untouchability or discrimination in any private or public place on grounds of caste, ethnicity, origin, community, occupation, or physical condition” but in reality, this principle has not been implemented at the ground level. Dalits have been facing discriminatory behavior in every sector and steps of their life. Not only by the upper caste people but within themselves due to the hierarchy system within their caste, they are facing discrimination especially the women who are more vulnerable in this caste. There is the provision that those who practice this system shall be punishable by law as a serious social crime and the victim of such act shall have the right to compensation as provided by law, even having strong punishable law this system is still in practice especially in rural areas. The survey found that 33% of Dalits have been facing discrimination in the health post, 13% did not receive equal wages and 96% are unaware of the policy and laws regarding Dalit rights. So, the government should take strong initiatives to implement and monitor the policies at the local level to claim the rights of the Dalits.

<sup>14</sup> Mandal, C.K. (2019, September). Discrimination against Dalits still rife, continue to be left out of decision-making processes. The Kathmandu Post. Retrieved from <https://kathmandupost.com/national/2019/09/08/discrimination-against-dalits-still-rife-continue-to-be-left-out-of-decision-making-processes>

### 3.3.3. SANTHAL: Right to Land

This survey shed light on actual condition of the Santhal community regarding the ownership of land at the ground level. In the constitution of Nepal, it is stated that ‘Every citizen shall have the right to proper housing’ [Article 37(1)]<sup>15</sup> and the government also declared to provide subsidies but many of them are lagging behind to receive it. Therefore, to find out what is the condition of the Santhal community in the ground level and to collect the evidence for the advocacy, issues based questionnaires were developed and analysis have been made accordingly.

In total, 772 Santhals were involved in this survey. But, 762 data were used to find out facts and figures. Out of which 25 % were male respondents and 75% were female for the same reason as were the case among Dalits: men were away from their home for work.

#### Occupation of the Santhal Community

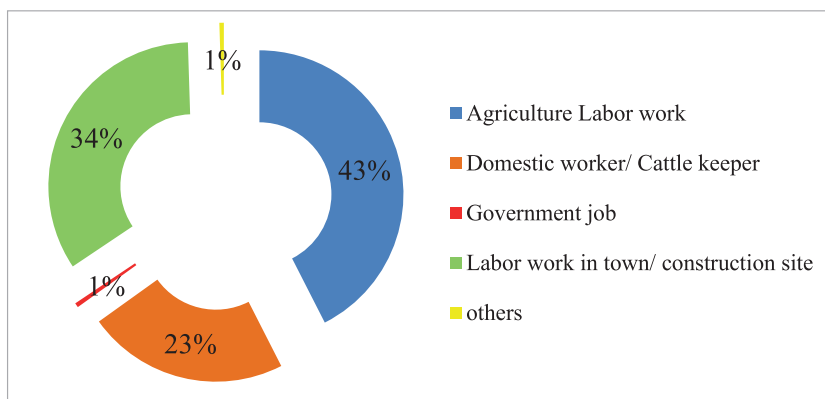


Figure 23: Occupation of the Santhal Community

Santhals are considered agricultural laborers and are fully dependent on agricultural work to sustain their life. Our survey has also shown that 43% Santhals are involved in Agriculture Labor work. However, they are also involved in other occupations - 34% are involved in Labor work in town/construction sites and 23% involved as Domestic worker/ Cattle keeper. Furthermore, Santhals are involved in government jobs too but only 1% i.e 4 each is involved in government/private jobs which shows that they are still backward in government/private jobs as their literacy rate is very low. But unlike others, Santhals receive equal wages like other castes.

<sup>15</sup> Secretariat, C. A., & Durbar, S. (2015). Constitution of Nepal 2015. *Kathmandu: Constituent Assembly Secretariat.*

### Government subsidies for Santhal community

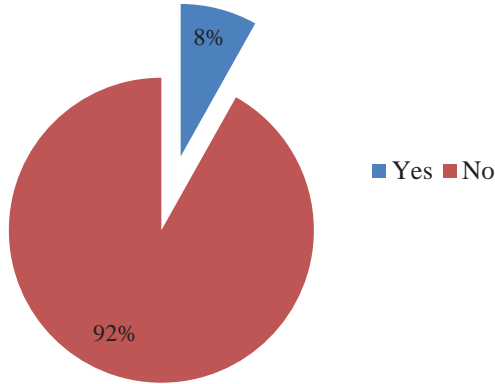


Figure 24: Government subsidies for Santhal community

The Government has brought the provision of providing subsidies for Santhals, one of the marginalized landless communities. But the ground reality is Santhals are far behind accessing government services. Only 8% have received subsidies under the Poverty Alleviation Fund, toilets, relief fund or housing.

### Ownership with land registration certificate

Santhals are landless people who used to live on public land or rented land. Only few people have their own land but these lands are not registered on their name. However, 69% respondents said that they don't have a land registration certificate with them.

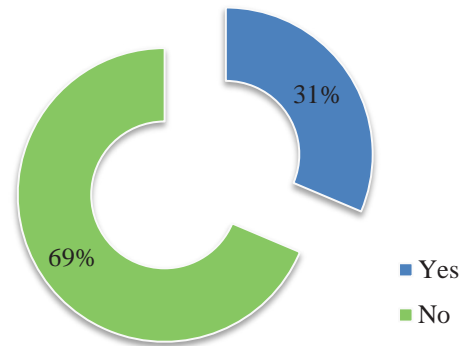


Figure 25: Ownership with land registration certificate

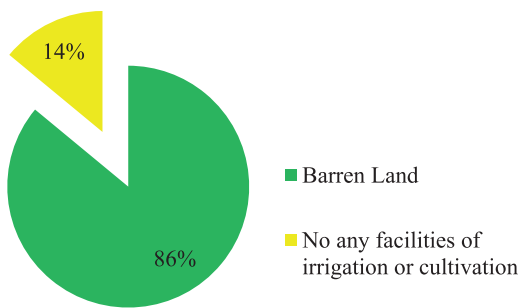


Figure 26: Land belong to Santhal Community

### Land belong to Santhal Community

Santhals are regarded as landless/stateless communities. Only few of them have their own land and the maximum of them used to live on public land or rented landlord land. As shown in the figure 26, 86% Barren land belongs to Santhal households whereas 14% land which has no facilities of irrigation or cultivation belong to Santhals.

### Reasons behind Santhal community landlessness

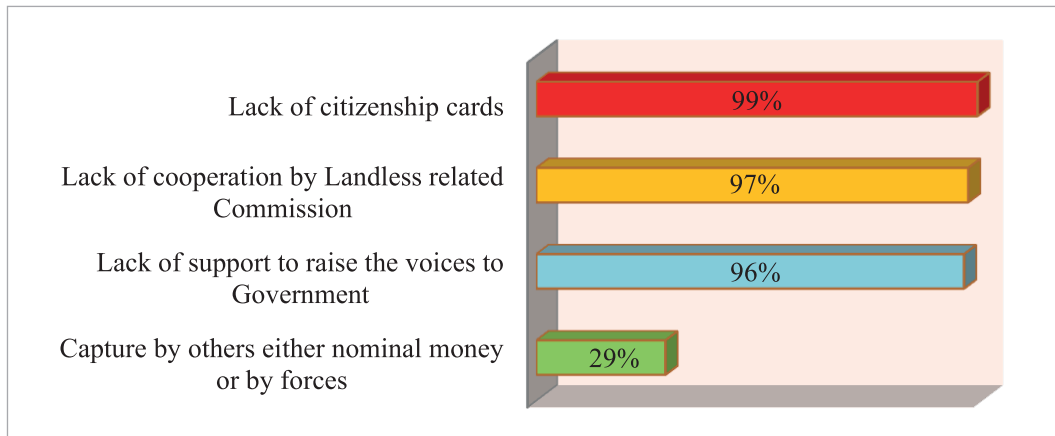


Figure 27: Reasons behind Santhal community landlessness

Santhals considered landless but the major reason behind them being landlessness is lack of citizen certificate. Our findings show that 99% Santhals are landless because of not having citizenship cards and 97% have been landless because of lack of cooperation by landless related commission. Similarly, 96% expressed there is lack of support to raise their voice to the government and 29% Sathals land has been captured by landlords either nominal money or by force.

### Reasons behind Santhal community not getting land certificate

One of the major findings in Santhals is they have no land certificate despite trying so hard to receive the certificate of the land they own. As shown in figure 28, 3% of Santhals have been deprived of land certificates because of lack of citizenship, 13% feels that it has been due to lack of proper policy of government. Similarly, 85% of Santhals have been suffering from the negligence of local authorities. Every time they go for it they remain unresponsive.

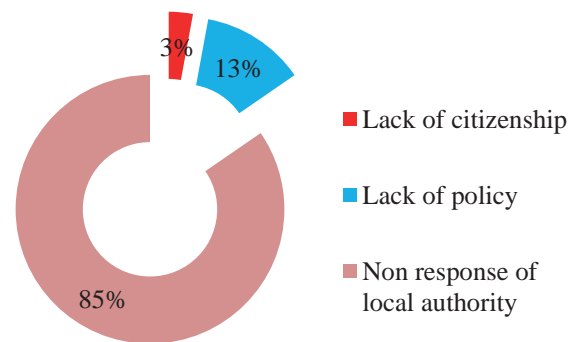


Figure 28: Reasons behind Santhal community not getting land certificate

### Disaster problem faced by Santhal community

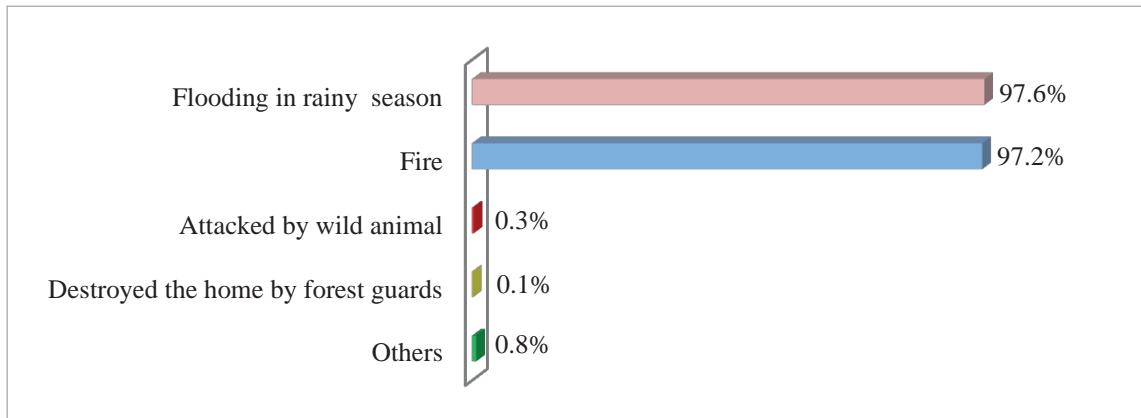


Figure 29: Disaster problem faced by Santhal community

Santhals used to live in vulnerable prone areas and at the bank of rivers due to which they are prone to natural disasters. As shown in figure 29, 97.6% are prone to flooding during the rainy season and it is the main problem faced by the Santhal community for they live on the bank of a river. The settlements of Santhals are so close to each other that they are prone to fires too. 97.2% of Santhals are living very closely with the more probability of catching fires.

### Incidents of Gender Based Violence

Our finding shows that only 3% (n=26) have experienced Gender Based Violence. In Santhal community, the incidents are because of the male torturing the females after they are drunk and few words fighting due to misunderstanding. But, the incidents of GBV occurring in the Santhal community are very low compared to other target groups.

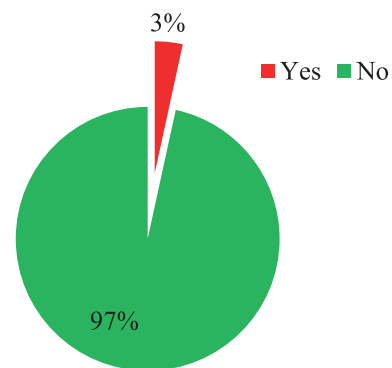


Figure 30: No. of Gender Based Violence incidents

## Reasons behind not receiving Citizenship

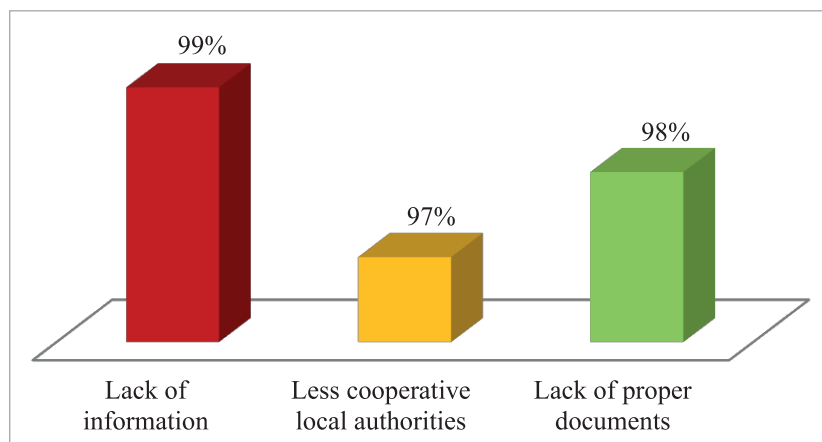


Figure 31: Reasons behind not receiving Citizenship

Most of the Santhals don't have citizenship cards due to which they are being stateless and could not be able to enjoy the facilities provided by the government. The reasons behind not receiving citizenship card are:

- 99% response due to lack of information regarding the process to receive citizenship.
- 97% response that the local authorities are less cooperative
- 98% response due to lack of proper documents to receive citizenship.

It is stated in the constitution of Nepal that the landless and squatters will be identified and small plots of land or house, employment will be provided for their livelihoods but it has not fully cooperated in the ground level. Most of the Santhals dwell on the public barren land at the bank of the river which is not even used for cultivation. Even though these lands are not registered on their name and the governments are unresponsive in this issue. 99% Santhals are landless because of not having citizenship and regularly face outrages from the landowner or the government to leave the land and 33% don't have access to toilets as they are not allowed to build toilets. The government has announced to provide subsidies as a relief for the marginalized communities, despite only 8% of Santhals have received such subsidies. Almost all the Santhals who were involved in the survey are unaware about the legal constitutional provision regarding the rights of the minorities and indigenous people due to which they are lagging behind to claim their rights. So, the government should identify and maintain the database of the landless people and provide them with land ownership and certificate, housing and livelihood support as per the "Local Government Operation Act, 2017." The local government should also organize awareness programs for these communities regarding laws and policies on their rights.

## 4. CONCLUSION

Santhals, Dalits and Freed Haliyas are the primary right holders of this initiative. They are among the most marginalized, deprived population facing age old oppression through the imposition of a stratified hierarchical model rooted in Nepalese social, cultural and economic life. They are unaware of their rights and entitlements and excluded in the decision making process and furthermore, these communities have limited capacities to mainstream their agenda in the development discourse. The precarious situation is rooted to the limited understanding of prevailing laws and policies that would lead to increasing respect to their human rights if implemented.

Discriminations and exclusion based on caste, gender identity and disability are still common practices in the Nepalese society (source: Nepal Sustainable Development Goals, Status and Roadmap, National Planning Commission, 2019). Despite the government declaring Nepal as an untouchability free nation, this practice is still prevalent in the rural communities and even in the health post, the people faced discrimination based on their caste. Similarly, the Haliya system was abolished by the Government of Nepal and decided to distribute the Freed Haliya ID card to recognize the Haliya people and rehabilitation packages but still 1113 Haliya families have not yet received the Freed Haliya ID card and 1197 families still remained to receive the Freed Haliya rehabilitation package. Likewise, Nepal has declared ‘Open Defecation Free’ country but still, Santhal communities don’t have access to toilet facilities because they don’t have their own land. 99% of Santhals are landless because of not having citizenship cards. Most Santhals are lagging behind to receive government services and subsidies, allowances and birth certificates of the children because of not having citizenship cards. So, this initiative plan to increase its support to these target groups and aim to empower these marginalized communities in Doti, Sarlahi and Morang districts, enabling them to claim their rights at different scales:

- **timely and just rehabilitation for freed-Haliyas**
- **untouchability and discrimination for Dalits**
- **landlessness/ land rights for Santhals**

The major impact this initiative has left out at the grassroots level is that the citizens/right holders themselves are being engaged in the process of ESC rights monitoring. They are aware about the policies through which they can claim their rights and ask for the subsidies that the government has provided to them. This initiative ultimately contributes to the advocacy process in the future.

CAHURAST-Nepal in collaboration with LWF-Nepal has initiated the practice of ESCR monitoring by developing community monitors to collect evidence from the ground level by using Mobile App technology. The collected data from the ground level is strong evidence for the advocacy and lobby with the government from local to global level. It will help to empower and support the right-holders to raise their voice and claim their rights more effectively. This ESCR Year Book 2019 and the collected evidence from the ground level based on the issues of right holders (timely and just rehabilitation for freed-Haliyas, untouchability and discrimination for Dalits and landlessness/ land rights for Santhals) has also helped to address these issues in UPR Shadow report of 2020.

## Key conclusions observed on the ESC Rights

Concluding observations on the third periodic report of Nepal by the committee on ESC Rights:

### For Haliya Community

Although the traditional bonded labour system (*Kamaiya, Haliya and Kamalari*) has been formally eradicated and measures have been taken for the rehabilitation of former bonded labourers, many of them, in particular in the western part of Nepal, face obstacles to social reintegration, due to their lack of skills and lack of access to fertile land for cultivation, which leads them to return to their previous employers, by whom they are often exploited (arts. 2 and 7).

**The Committee recommends that the State party increase its efforts to ensure that freed bonded labourers are entitled to full rehabilitation and integration, in particular through access to fertile lands for cultivation and to housing, food, health, education and vocational training for income-generating activities and employment.**

### For Dalit Community

Article 13 of the interim constitution, which guarantees the right to equality and non-discrimination, does not include provisions against discrimination on the grounds of property and birth. While noting the adoption of the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, in 2011,

**The Committee is concerned that Dalits continue to face widespread discrimination in the enjoyment of ESC rights: in particular, access to education, health care, food, housing, employment and income-generating activities and that Dalit women are victims of multiple discrimination, as they are more vulnerable to sexual exploitation, trafficking and various forms of violence, including domestic violence.**

### For marginalized community (Santhal)

The Committee is concerned at the lack of a comprehensive housing policy which could enable poor, disadvantaged and marginalized persons to access housing. It is also concerned at reports of forced evictions, including in the context of development projects, without the free, prior and informed consent of those affected, reasonable notice, and adequate compensation or alternative housing provided to them (art. 11).

**The Committee recommends that the State party develop a comprehensive housing policy in order to facilitate access to housing for poor, marginalized and disadvantaged persons and families.**

## 5. RECOMMENDATIONS

### Right to Education

- Specific quotas should be allocated for the people of the Haliya community to encourage them to pursue Higher education as well as in technical fields.
- Government should increase the investment in the field of education, health and empowerment focusing on Haliya community
- Due to poor economic conditions most of the Santhal students are dropout from the school. So, the government should provide scholarships for higher education too.

### Right to Health

- Perception based caste discrimination should be frequently monitored by the local bodies especially in health sector.
- The local government should allocate a budget for those Santhals whose economic condition is very weak in case serious diseases occur.

### Haliya: Right to timely and just rehabilitation

- As 77% of Haliya families are still to receive the Freed Haliya rehabilitation package, the government should hold up to its responsibility to the identified Freed Haliyas.
- 71% of Haliya families are still left behind to receive a Haliya ID card. Thus, the government should identify the left ones from a survey and make a database in order to distribute Haliya ID cards and rehabilitation packages.
- Local government should take legal action against caste based discrimination and should take necessary steps to enforce new law to protect and support Haliya community.
- Local government should promote public awareness program regarding existing law and provision provided by the government for the Haliya community
- Inclusive law and policy should be made and Haliya community or representative should be include in decision making process

### Dalit: Rights against untouchability and discrimination

- The existing laws and policy regarding caste based discrimination should be implemented effectively and should take legal action regarding discrimination. In those situations where police do not take or register cases regarding caste based discrimination, the local government authorities should take action instead
- Dalits are suffering from an unfair wage system as compared to non-Dalits. So, there should be strict provisions to provide equal wages to Dalits like non-dalits are receiving.

## Santhal: Right to Land

- Government should take action to support the Santhal communities in their efforts to improve their living standard, access to employment and representation in the policy-making.
- Due to the deprivation of citizenship, Santhals are forced to live as a second-class stateless community. Therefore, the government should take immediate action to provide citizenship to those Santhals who are lagging behind it
- The government should provide citizenship by descent or citizenship by birth to those children whose parents have citizenship by birth.
- Local governments should promote a public awareness program regarding existing law and provision provided by the government for the Santhal community.
- Local governments should identify and keep data of landless people and provide them with housing and livelihood supports as per the “Local Government Operation Act, 2017”.
- The government should provide tenant rights (मोहियानी हक) with land certificate to those Santhals whose settlements are in public land (ऐलानी जग्गा).

### ***Universal Periodic Review (UPR) 3<sup>rd</sup> Cycle, Recommendation submitted to the Government of Nepal under the Voice for rights - linking local to global advocacy (Awaj) project.***

In the 3<sup>rd</sup> cycle of Universal Periodic Review, the following recommendations were submitted to the Government of Nepal under the Voice for rights - linking local to global advocacy (Awaj) project. These recommendations have been made based on the data collected from the field survey on the issues and problems faced by the rights holders.

#### **Right to Education**

1. Enable Provincial and Local Governments to implement existing laws, especially on free and compulsory education, in full pledges to ensure quality education to most marginalized, vulnerable groups such as freed-bonded laborers, Santhals and children with disabilities.
2. Enact the law with the provision that all the private and public schools shall be registered as not for profit organizations to minimize privatization and commercialization of education.
3. Ensure a fair recruitment process for all the candidates for teacher despite their political ideology.
4. Set minimum qualification of teachers, especially for the public schools based not only on oral and written tests but also on practical tests. Provide them with appropriate salary
5. Promote child friendly and inclusive education methods.
6. Take specific measures to prevent students from dropping out of the education, particularly targeting most marginalized children belonging to indigenous groups, freed bonded laborers by introducing programs such as livelihood support for the parents so that they are able to feed their children before sending to schools, take measures to implement the provision of snacks in schools for children from these families.
7. Ensure that schools have basic infrastructure which are accessible to children with disabilities.
8. Ensure that schools have separate girls' toilets and they are not discriminated during their menstrual periods.

### **Right to timely and just rehabilitation**

9. Take immediate action to conduct a national survey and register all the freed Haliyas in Nepal.
10. Take swift action for concluding adequate rehabilitation of freed bonded laborers. The federal government should form investigation committees at the local level to identify the issue for non-implementation of the rehabilitation of the freed bonded laborers, and provide them with adequate rehabilitation packages immediately.
11. Bring one household, one employment policy for the freed bonded laborers to ensure their livelihood needs and enact policies for a comprehensive rehabilitation package.
12. Form investigation committees at local level to investigate reasons for not distributing identity cards to Kamlaris.
13. Take immediate steps to provide technical training and employment to freed Kamlaris.
14. Take steps for proper categorization of freed Haliyas as per their real situation in terms of possession of land and house and register left out freed Haliyas.
15. Take action against the landlords and other citizens of Nepal still practicing bonded labors
16. Provide land ownership for the freed bonded laborers to the land where they were living for decades.

### **Right to equality and non-discrimination**

17. Instruct law enforcement agencies to take immediate action for investigating caste based discrimination cases and take measures to expedite judicial hearing
18. Take immediate action against the law enforcing officials if any cases punishable under law are resolved informally
19. Raise awareness of citizens on prevailing laws against discrimination
20. Ensure that any forms of discrimination or violence against inter-caste married couples are eliminated.
21. Ensure that PwDs have easy access to the political process including voting
22. Ensure that the National Human Rights Commission, National Dalit Commission are fully resourced and mandated to enhance their independence, credibility and effectiveness.

### **Right related to name, identity and nationality**

23. Amend the Nepal Citizenship Act immediately to ensure that children of the parents having citizenship by birth also receive citizenship certificate and enjoy other human rights
24. Ensure that no children of Nepali citizen are deprived of citizenship and all the children born in Nepal receive birth registration certificate
25. Take measures to ensure that people living in Nepal enjoy basic human rights.

### **Right to Land**

26. Bring Santhals into the scope of land distribution schemes as directed under the Directive Principles of the Constitution
27. Take a federal level decision to provide government land to landless people as per the Constitutional provision and implement this decision as soon as possible
28. Amend Land Act with special provision of land reform and distribution, especially for landless, tenants and marginalized groups.
29. Take measures to provide alternative livelihood option for landless and marginalized people

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## ANNEXES

### ANNEX 1: Case Story on issues of Target Group

#### *Lack of legal identity hurdled a couple to receive senior citizen allowance and disability allowance till date*

Vidyananda Hasdak, 75 years old, living with a disability is a resident of the Dhanpalathan Rural Municipality. Since six years, because of high blood pressure, he has been paralyzed.

Several years ago, he moved to India with his family including his wife and five daughters in search of employment. This is because he didn't even have a land to cultivate and feed the family. Further, he has no such legal identity to prove that he is a citizen of Nepal. Even his parents did not receive the citizenship certificate which has created more problems for him to receive the Nepali citizenship certificate despite being Nepali citizen.

After 12 years of living in India, he returned to Nepal with his family. He set up a small slum house on the banks of a river in *Eilani* land. Unfortunately, it was only 3 months he could stay because the villagers forcefully occupied the area and burnt his house. His family suffered from the inhumane action of local rulers. Then, he moved back to Marshal Tole, where he had stayed long years ago, before moving to India. At the same time, he

started to proceed for getting citizenship cards because he didn't have citizenship. However, despite his continuous effort to receive, he has still not received it. In the constitution, it is mentioned that the entire Nepali citizen should not be deprived of the citizenship certificate. Unfortunately, still thousands of people are deprived of citizenship and same is with Vidhyananda.

**“ Vidyananda says - “if I could get senior citizenship allowance and disability allowance in this age and condition, it would be very convenient and comfort for the family. I would like to request the government to understand the pain of people, who do not have ‘citizenship’.”**

Not only had him, even his wife who has to receive citizenship on his husband's name had to be deprived of citizenship. So, as with his children.

However, the eldest daughter has citizenship on her husband's name after her marriage. With this legal identity, she managed to purchase 1.5 *Kattha* of land. At present, Vidyananda and his wife are living in the same land with his younger daughter and son-in-law together. The younger daughter and son-in-law are working for family survival by cultivating in other people's land. The youngest daughter and son-in-law also don't have citizenship, so it's being difficult to proceed for the birth registration of grandchildren.

## *Vicious circle difficulties of Haliya with Physical Disability*

Dambar Bahadur Bhul, a 46 years old living with a physical disability is a single father who has the responsibility of upbringing his two sons. Unfortunately, he could not even perform daily activities well and do the hard physical labors work to sustain his family. He is not educated as well. Living under the poverty line with no source of income, he is living his life in much difficulties depending upon his elder brother and other relatives.

Mr. Bhul is from the freed Haliya group. However, he did not have a Haliya card and disability card as well. These legal identities would have helped him to receive the services which might ease in his living to some extent. Unfortunately, with a lack of identities, he has not received the Haliya rehabilitation package – the special service provided by the

government for the freed Haliyas. He mentions that despite providing all the required information and documents to the government during the Haliya identification survey in 2008, he has not been provided a Haliya card yet. He formally applied and gave a request letter to the Municipality office for receiving Haliya identity cards but the government did not take any initiatives regarding this issue. He has high hopes from the government after the political change in the country so he frequently visits the municipality office in a hope to receive a Haliya ID card as soon as possible. He believes that after receiving Haliya card he would be able to receive the rehabilitation packages that would reduce his burden to some extent. After the abolishment of Haliya system in 2008, the government of Nepal distributed the Freed Haliya ID card to recognize the Haliya people and rehabilitation packages but still, people like Dambar Bahadur have not been recognized as Haliya and are left behind to receive Haliya ID card and Haliya rehabilitation packages.

## *Workplace discrimination leading demotivation among Dalits*

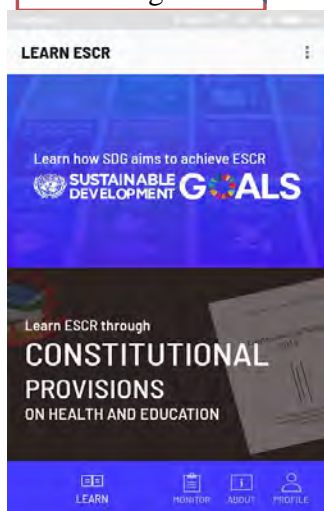
32 years old Suntali Pariyar who lives in a small house at Lalbandi Municipality Ward-2 depends on the daily basis wages work to fulfill the basic need for the living. Her husband is a migrant worker in India. Because of her poor economic condition she used to work in the water factory in Jutepani to pack water. After working for 2 days in a factory, the owner of the factory came to know about her being a Dalit caste which is regarded as a lower caste in our society. So, the owner did not allow her to work in a factory because if the people came to know that she is involved in packing the water bottles they would not buy and drink the water. A huge discussion took place between them and she raised her voice that because of her caste, they cannot force her to leave her job. Despite untouchability and discrimination has been already abolished in Nepal and there are strict

laws against it but she was forced to leave her job in the water factory. This incident has mentally affected her and after this incident, she was not interested to work in other places and had to depend upon her husband's income. This incident took place in December, 2018. At that time, she did not file any case against the owner of the factory thinking that her voice would not be considered.

She also shared that whenever there were any kind of social functions and rituals like marriage ceremony, parties, etc held in their neighborhood by upper caste people, all their neighbors would be invited to the functions whereas they were never allowed to attend as they belong to the low caste. This type of discrimination is still prevalent in society which has badly affected the lives of Dalits. After such incident, she was mentally stressed and discouraged to apply for other jobs. To overcome this type of oppressive behavior, she came up with a thought to be strong and be able to raise her voice to fight against the injustice. Like Suntali Pariyar many people from a lower caste in the rural community are still facing discrimination in their daily life and workplace which has affected them mentally and physically.

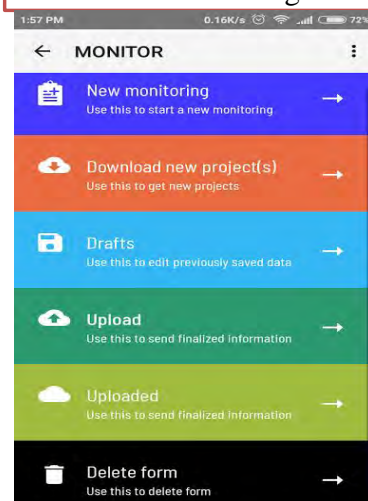
## ANNEX 2: Overview of ESCR App

ESCR app as learning tool



Any citizen could download the app and learn about how Sustainable Development Goals aims to achieve ESCR and Constitutional provisions on health and education

ESCR app as data collection/ monitoring tool



Community monitors first download the forms from server; then click new monitoring to start monitoring; the forms that lack information remains in draft; after completing the forms with all information monitors upload it and submitted monitoring form directly come at CAHURAST server system; unnecessary files can be deleted.

## Facts and Figures of Right to Health and Right to Education According to UNDP's Sustainable Development Goals

Right to Health	Right to Education
<ul style="list-style-type: none"> <li>• At least 400 million people have no basic health services, and 40% of the world's people lack social protection.</li> <li>• More than 1.6 billion people live in fragile settings where protracted crises, combined with weak national capacity to deliver basic health services, present a significant challenge to global health</li> <li>• 21.7 million people living with HIV were receiving antiretroviral therapy. Yet more than 15 million people are still waiting for treatment</li> <li>• Every 2 seconds someone aged 30 to 70 years dies prematurely from non-communicable diseases - cardiovascular disease, chronic respiratory disease, diabetes or cancer</li> <li>• 7 million people die every year from exposure to fine particles in polluted air</li> <li>• More than one of every three women have experienced either physical or sexual violence at some point in their life resulting in both short- and long-term consequences for their physical, mental, and sexual and reproductive health</li> </ul>	<ul style="list-style-type: none"> <li>• Enrollment in primary education in developing countries has reached 91 percent</li> <li>• Still, 57 million primary-aged children remain out of school, more than half of them in sub-Saharan Africa</li> <li>• In developing countries, one in four girls is not in school</li> <li>• About half of all out-of-school children of primary school age live in conflict-affected areas</li> <li>• 103 million youth worldwide lack basic literacy skills, and more than 60 percent of them are women</li> <li>• Globally, 6 out of 10 children and adolescents are not achieving a minimum level of proficiency in reading and math</li> </ul>



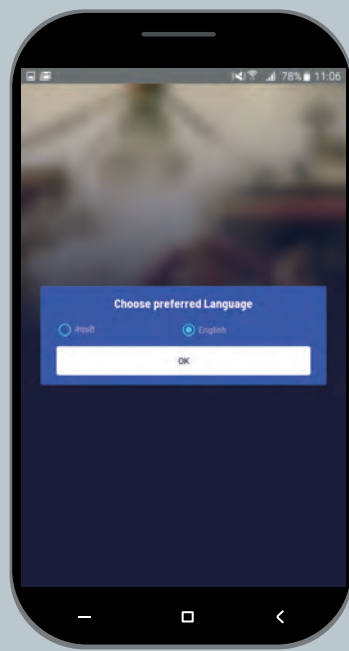


# ESCR App Work flow

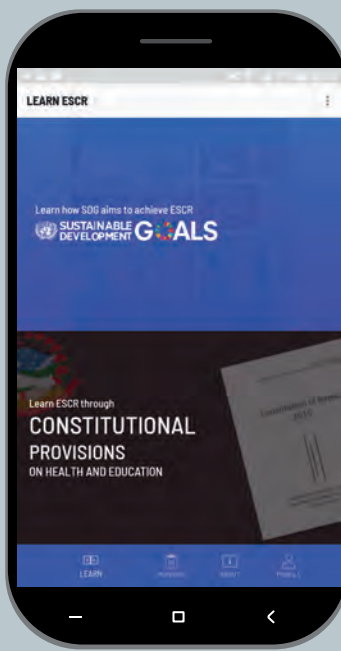
# Steps in using ESCR Monitoring App



Step 1



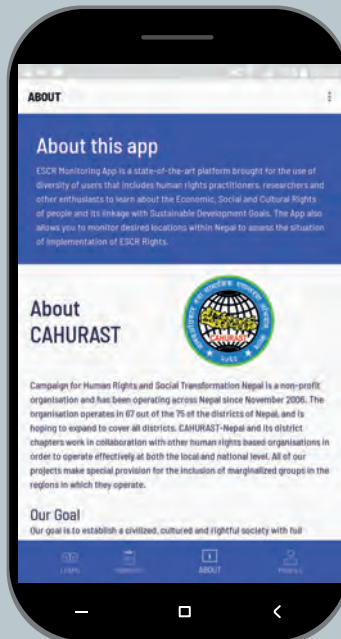
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Step 3



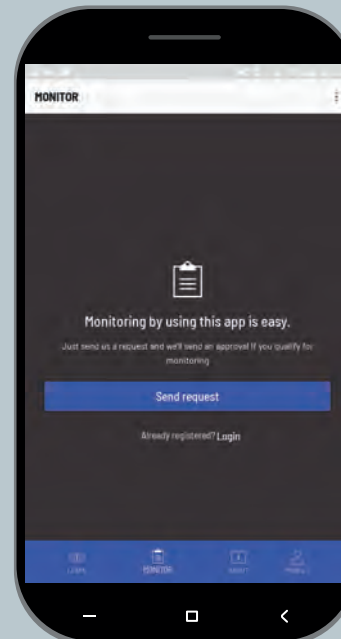
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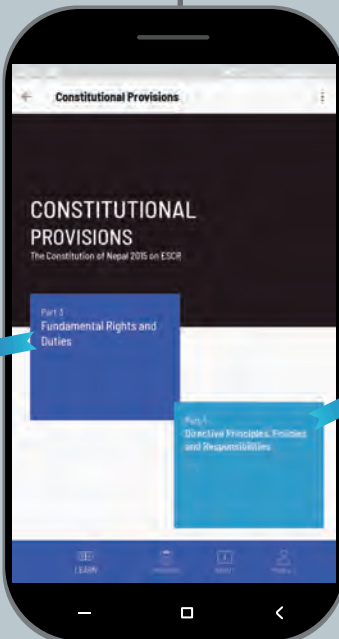
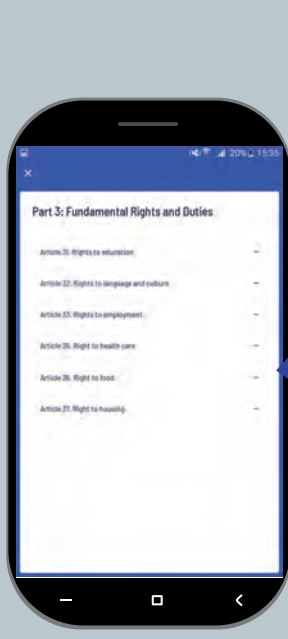
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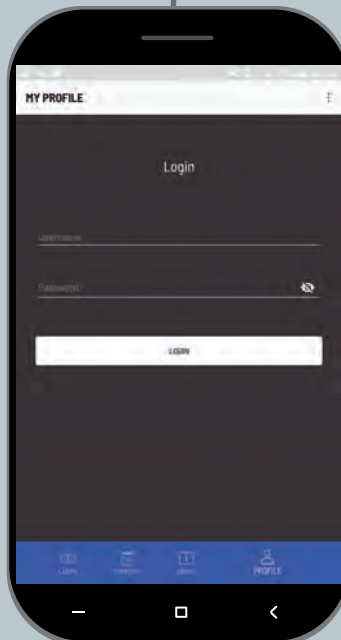
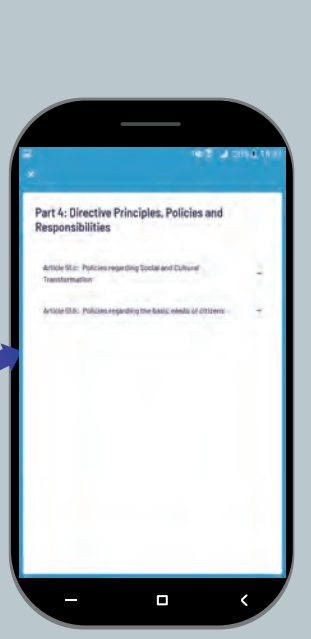
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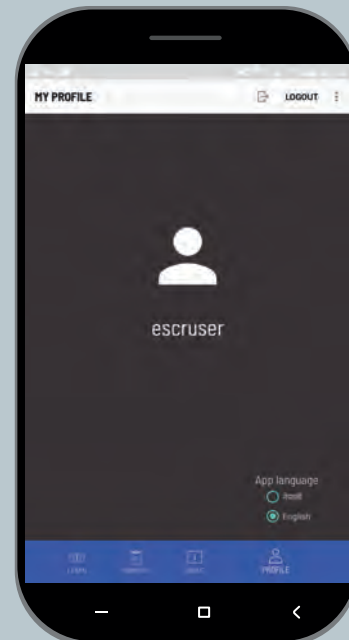
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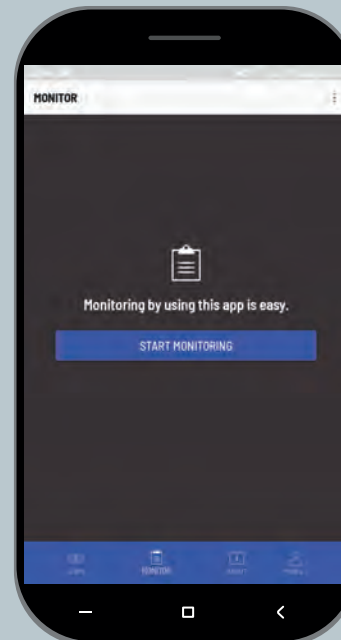
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Step 9



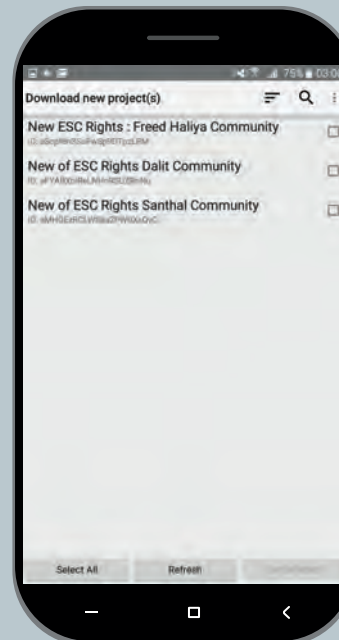
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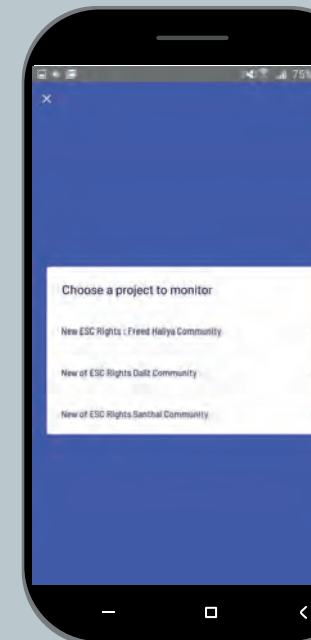
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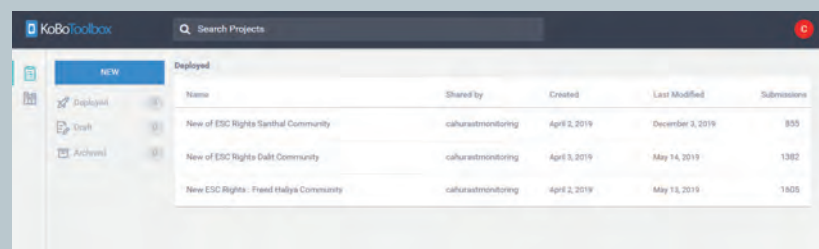
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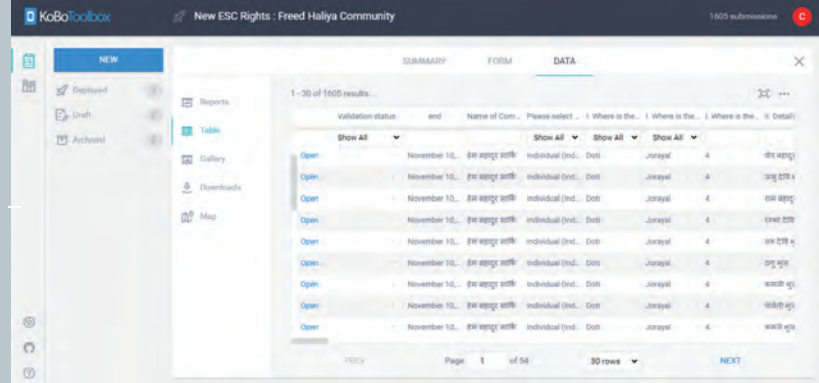
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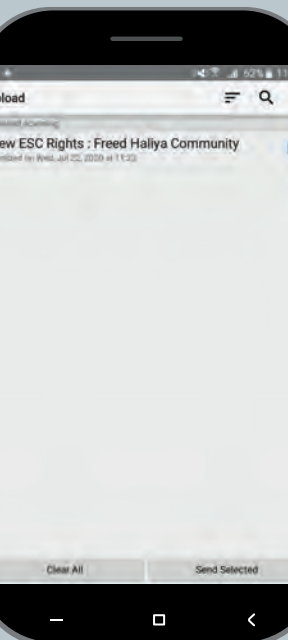
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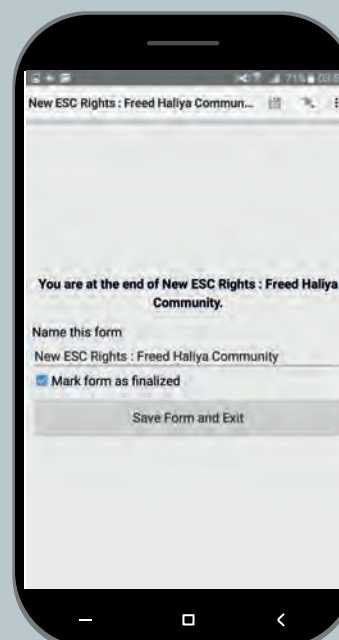
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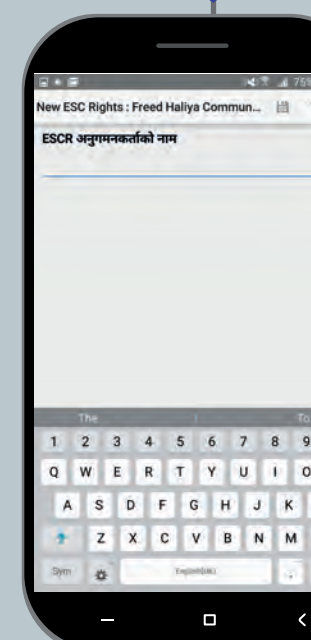
Step 19



Step 17



Step 16



Step 15