

## Written submission of FIAN International and FIAN Nepal to the 52 Session of the Committee on Economic, Social and Cultural Rights – Pre sessional Working Group on Nepal

15 of October 2013

### *List of issues proposed in connection to the third periodic report of Nepal.*

**Food-first Information and Action Network (FIAN) Nepal** ([www.fiannepal.org](http://www.fiannepal.org)) is a member-based human rights organization to promote and advocate for the realization of the human right to food in Nepal. In December 2008, FIAN Nepal acquired legal status as non-governmental organization. FIAN Nepal was recognized as National Section of FIAN International in October 2009.

Nepal is one of the least developed countries (LDC) with a low Human Development Index ranking at 157<sup>th</sup> position<sup>1</sup>. The prevalence of underweight and stunting in children are among the highest in the world, even though between 1995 and 2011, the prevalence of underweight in children declined from 44 to 29 percent, while the prevalence of stunting declined from 64 to 40 percent.<sup>2</sup> Maternal under nutrition is a serious problem in Nepal: 35 percent of women of reproductive age and 46 percent of children are anemic.<sup>3</sup> Even though the prevalence of undernourishment has declined from 25.4 percent in 1990–92, it is still at 16.0 percent in 2011–13.<sup>4</sup>, thus 5 million<sup>5</sup> of the 30, 5 million inhabitants<sup>6</sup> are undernourished. The reasons for this are, inter alia, small cultivatable areas, the low level of agricultural productivity, lack of purchasing power due to insufficient employment opportunities and inadequate remuneration.

Unequal distribution of means of production, assets and social and economic status among different groups of citizens, including the caste-related and gender-related biases, is one critical factor leading to increasing poverty, hunger, and malnutrition in the country.

Around 37 percent of the land is in the hands of 5 percent of wealthy people who themselves are not engaged in cultivation.<sup>7</sup> This means that over 5.5 million Nepalese<sup>8</sup> people are landless. Having no land of their own, the landless and land poor are left at the mercy of big farmers and landlords, and are often forced to sell their labour for a negligible wage which eventually leads to a state of bondage. Most of them are illiterate and have no alternative means of earning a living<sup>9</sup>.

Departing from this reality, with this list of issues FIAN Nepal would like to provide the Committee with additional information which allows this monitoring body to build up a broader picture about

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<sup>1</sup> UNDP: (2010),(2010). Human Development report 2013- The Rise of the South: Human Progress in a Diverse World (available at: <http://www.un.org.np/reports/2013-human-development-report-rise-south>)

<sup>2</sup> The State of Food Insecurity in the World 2013: The multiple dimensions of food security <http://www.fao.org/docrep/018/i3434e/i3434e00.htm>

<sup>3</sup> Ibid.

<sup>4</sup> Ministry of Health and Population, New ERA, and ICF International Inc. 2012. *Nepal demographic and health survey 2011*. Kathmandu, Nepal, and Calverton, Maryland, USA, Ministry of Health and Population, New ERA and ICF International.

<sup>5</sup> The State of Food Insecurity in the World 2013: The multiple dimensions of food security <http://www.fao.org/docrep/018/i3434e/i3434e00.htm>

<sup>6</sup> UN data, available at: <http://unstats.un.org/unsd/pocketbook/PDF/2013/Nepal.pdf>

<sup>7</sup> Land and Land Tenure Security in Nepal, Community for Self Reliance Centre, 2008.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

governmental plans, policies and programs related to the implementation of the right to adequate food in Nepal. This is a preliminary information for the pre-sessional working group, since FIAN Nepal is preparing a full up dated alternative report, which will be submitted to the Committee for the formal session in 2014.

We thank the working group in advance for considering the following issues in the communication and further constructive dialog with the State of Nepal.

## 1. Identification of Groups Affected by Right to Food Violations

### Background

Marginalized and disadvantaged groups such as former bonded laborers, majority of Indigenous Peoples (*Janajatis*), Dalits, other ethnic, religious and sexual minorities, landless, persons with disabilities, HIV/AIDS affected and among them further more women, suffer from multiple forms of discrimination<sup>10</sup> and are especially affected in their realization of the right to food<sup>11</sup>. This is mainly due to:

- Endemic discrimination and social exclusion due to patriarchal institution, socio-cultural beliefs and practices, leading to further marginalization and increased vulnerability. This situation affects different communities and groups in the society, and within these especially women, which in many cases generates situations of multiple discrimination.
- Insufficient and insecure access to productive resources for livelihood in particular land, along with landlessness and evictions; discriminatory access to traditional resources such as forests, river and fishing areas. The marginalized groups are frequently denied access to land, food, healthcare, education, work, justice and the participation in decision-making processes.<sup>12</sup>

CSOs in Nepal have been continuously raising voices in support of marginalized groups - who are still out of the reach of the mainstream development programs, while challenges still remain in proper identification of marginalized and disadvantaged groups, and effective targeting of programs.<sup>13</sup>

**Proposed issue:** The Committee could request the state to provide information on measures taken to identify groups suffering from violations of the right to adequate food and its causes, in order to adopt more effective measures for the realization of the right to adequate food.

## 2. Measures Adopted to hold Authorities Accountable

### Background

According to researches and experiences of FIAN Nepal and several other national level human rights NGOs impunity is widespread with regard to violations of ESC Rights. Mostly, concerned responsible authorities are unidentified and actions to hold them accountable are nominal, at the most limited to oral statements of commitment by different policy makers while follow-up by the government is really

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<sup>10</sup> E.g. see SDC's concept of disadvantaged groups in "Disadvantaged Groups (DAG) mapping", p.4, 2008, available at: [http://www.swiss-cooperation.admin.ch/nepal/en/Home/ressources/resource\\_en\\_169271.pdf](http://www.swiss-cooperation.admin.ch/nepal/en/Home/ressources/resource_en_169271.pdf).

<sup>11</sup> In most of the cases documented by FIAN Nepal (app.90%) it is the marginalized and disadvantaged groups of the society who suffer the right to food violations.

<sup>12</sup> The cases documented by FIAN Nepal (more than 30 cases) show, that it is most often the marginalized and disadvantaged groups of society who are victims of violations of the right to food.

<sup>13</sup> Consultations with CSOs including Human Rights NGOs in Nepal, during the RtF Assessment Study process of FIAN Nepal (2010-2012) and during Agriculture Strategy Development by MOAD (2012-2013).

weak. A system should be established to hold authorities responsible for failures in fulfilling their obligations related to the right to food and other related human rights.

*For illustration the following example (documented by FIAN Nepal): Along the South Nepali border to India more than 3000 families of the Banke District are facing inundation and river erosion every year caused by the Laxmanpur Barrage and Kalkalwa Afflux on Indian territory, resulting in loss of lives, agricultural land, properties, crops and displacement facing hunger problem. They have brought various complaints before the respective administrative and national mechanism but until 2013 no comprehensive rehabilitation plan, no participatory consultation and no compensation has been provided for. The Nepali government failed to protect its citizens from the harmful actions of the Indian government. Already in 1982 the Nepali government has passed the Natural Calamity (Relief) Act<sup>14</sup> guaranteeing emergency assistance and disaster relief. But only in 2008 the Nepali government agreed to construct a temporary embankment. Only after a decade first steps to address sufferings have been taken. The responsible authorities in Nepali have not been identified nor have they been held accountable so that impunity continues.<sup>15</sup>*

**Proposed issue:** The committee could ask which measures have been adopted and implemented by the state to identify and hold accountable those authorities responsible for failures with regard to implementation of government orders and people's claims regarding the right to adequate food.

### 3. Food Aid Schemes

#### Background

Since the 1950s Nepal has been receiving food aid. The findings of a study commissioned by FIAN Nepal<sup>16</sup> informed that the real benefits to the poor people have mainly been temporary. Generally food aid has been used as a program to support immediate provision of food (rice mainly) as relief in emergency situations, while the attention to pertinent issues of structural transformation remains to be addressed. FIAN concludes that food aid has widely failed to significantly strengthen the people's livelihood base towards the realization of the right to adequate food. Food aid schemes should include conscious efforts to positively influence the structural causes of poverty, hunger and under nutrition rather than the mere delivery of grain to the area. Food aid schemes should integrate transparency, accountability, participation, non-discrimination and empowerment as essential components in its operation, while ensure equity in the distribution (use of local market to procure the food items, adequate storage and mechanisms to ensure that the most affected are reached) along with stronger monitoring mechanism.

**Proposed issue:** Are there strategies in place to assess the human rights impact and of existing food aid schemes, towards embedding these into broader human rights based development goals, so that people are able to feed themselves through their work, their resources and with the support, access services and resources and local markets are not disrupted?

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<sup>14</sup> Natural Calamity (Relief) Act, 2039 B.S. (1982), available at: [http://www.ncf.org.np/upload/files/11\\_en\\_natural-calamity-relief-act.pdf](http://www.ncf.org.np/upload/files/11_en_natural-calamity-relief-act.pdf), accessed 15 Oct. 2013.

<sup>15</sup> Case work of FIAN Nepal: After a series of interventions by FIAN Nepal, FIAN International and other bodies, finally the data collection process started on loss and damage caused by the Rapti River/ Laxmanpur dam, it has been completed in four VDCs and for the remaining two it is ongoing from the mid of July 2013.

<sup>16</sup> FIAN Nepal: "Assessing the Impact of Food Aid on the Right to Adequate Food in the Western Hills of Nepal", 2013, forthcoming. A draft version can be submitted by FIAN International if required.

## 4. Incorporation of the Human Right to Adequate Food and Water in the National Legal Order, Policy Adoption and Implementation

### Background

The inclusion of the “right to food sovereignty” in the Interim Constitution was a great advance to support the fight against hunger and malnutrition. The state of Nepal should adopt all necessary measures to incorporate the right to adequate food - including food sovereignty and nutrition with a gender perspective – and the right to water, in the new Constitution and to ensure their direct applicability.

Though the State of Nepal has put some efforts in the adoption of policies and strategies towards the realization of the right to adequate food<sup>17</sup>, the lack of implementation, lack of primacy of human rights and the legal environment, makes adequate and effective implementation and monitoring difficult. In order to strengthen the compliance with obligations related to the right to food, a new comprehensive policy and legal framework along with capacity strengthening of related institutions are needed, to ensure implementation of these provisions. Special emphasis should be put on gender and inclusion aspects. Moreover, the central government should provide technical support to the local governments and administrative staff members to ensure implementation of the right to food at the local level.

**Proposed issue:** The Committee should request the State of Nepal to provide updated information regarding measures adopted for the inclusion of the right to adequate food and water into the new constitution and on the existing plans to develop a comprehensive policy and legal framework on the right to adequate food. The Committee could also ask which measures have been adopted (or will be adopted) to ensure coherence between the right to food and other related laws, as well as which measures have been implemented or are to be implemented to ensure inter-institutional coordination in the implementation of right to food related laws and policies. Further information could be requested on those steps taken to increase the capacity of local authorities in the implementation of related laws and policies and on what measures are being taken to ensure that public servants working at national and local level are educated about the human right to adequate food, its holistic concept and the related implications for their work.

## 5. National Human Rights Institutions

### Background

Follow up of cases on violations of the right to adequate food is not taken adequately care of.<sup>18</sup> The capacity of the National Human Rights Commission (NHRC) - personnel, as well as program and funds - for monitoring and promoting economic, social and cultural rights has to be further strengthened, and cooperation with human rights and other civil society organizations has to be intensified to increase the attention of the Government towards response on the issues raised and thereof approach the remedial actions for realization of the right to adequate food.

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<sup>17</sup> For example, in 2011 Nepal has adopted a law that prohibits caste-based discrimination:

<http://www.un.org/apps/news/story.asp?newsid=38496>

The government of Nepal has also committed to reduce poverty and hunger (MDG1)

<sup>18</sup> FIAN Nepal has submitted four Right to Food violation cases to NHRC at Mid West regional office, while one case was submitted at central level as well. NHRC has made commitment to investigate these cases (it is included in their work plan of 2069/2070 – Nepali time) however still awaiting follow-up actions by NHRC.

**Proposed Issue:** The committee could ask to provide information on the concrete ways through which the National Human Rights Commission will be strengthened, in particular with regard to its ability to adequately focus on the implementation of economic, social and cultural rights.

## **6. Optional Protocol to the Committee on Economic, Social and Cultural Rights and ILO Convention 169**

### **Background**

Despite numerous actions and requests by civil society organizations the state of Nepal has not ratified the Optional Protocol to the ICESCR.

ILO 169 has been ratified by Nepal in 2007; however, its provisions are still not incorporated into the domestic law.

**Proposed Issue:** The Committee could ask the State which measures have been taken to ensure the ratification of the OP-ICESCR and if some, which are the missing steps to finalize the ratification and which measures are going to be taken in order to ensure prompt ratification. Which measures have been taken to incorporate the provisions of ILO Convention 169 into domestic law?

## **7. The right to food and access to land for marginalized and disadvantaged groups**

### **Background**

In Nepal, Dalits and ethnic groups are usually marginalized and land ownership and access to and control over land and related resources is a major issue for them. A large population of indigenous ethnic groups solely depends on natural productive resources for subsistence. About 80% of the indigenous population is marginal landowners, owning only less than 1 acre, or small cultivators (owning 1-2 acres). Most Dalits are landless. The gender dimension of land distribution is even more critical: men own 92% of the land holdings. Due to very low level of land ownership, they tend to experience enormous food insecurity. Being landless, the vast majority of these groups of people have no access to resources related to land ownership.<sup>19</sup>

*The Gandharva community, a traditional musician community belonging to the Dalit caste has been playing the traditional instrument Sarangi and singing songs as their main occupation to support their livelihood. The Gandharvas are mostly landless. A group of Gandharvas settled in Saurahawa VDC were allocated land in the year 1996 by the Landless Problem Solving Commission. The land was allocated on the basis of persons in the family and 42 families were supposed to receive land. Although the land was allocated to the Gandharvas, till dates these people do not have land registration documents with them. As a consequence, some of the land was encroached as community forestry by other local people.<sup>20</sup> In the meantime, according to information by FIAN Nepal, the land of 18 households was surveyed by the Land Survey Office in September 2013, and these people are hopeful to get their certificate in November /December 2013. For the remaining households, however, the issue is not solved.*

<sup>19</sup> Adhikari, Jagannath: Land Reform in Nepal: Problems and Prospects, P.44, ActionAid, 2008, available at: [http://www.actionaid.org/sites/files/actionaid/land\\_reform\\_complete\\_-\\_done.pdf](http://www.actionaid.org/sites/files/actionaid/land_reform_complete_-_done.pdf)

<sup>20</sup> Asian Human Rights Commission (AHRC): <http://www.humanrights.asia/news/hunger-alerts/AHRC-HAU-002-2011>  
Asian Human Rights Commission (AHRC): <http://www.humanrights.asia/news/ahrc-news/AHRC-OLT-012-2011>

*Lack of proper wages, social security and health care has been leading to severe food insecurity and malnutrition of women in Surkhet district. In a hamlet composed out of small huts without doors or windows live fourteen landless women aged 22 to 45, also belonging to the Gandharva community.<sup>21</sup> They suffer from severe lack of food and basic health care facilities. These women have lived in Jhupra hamlet, Baluwatar 1, of Jarbutta VDC since 1993, located in the Shiva community forest between two other community forests. Their daily work entails collecting sand from the Jhupra stream banks, crushing stone and loading the heavy stones into trucks that transport these to the cities, where the material is used for construction work. For this they hardly get paid 100 NRs (1.42 \$) a day by the middleman for work done from dawn to dusk. During monsoon, it is very challenging to draw out sand and stones from the river, often half dipped in the river so that they are compelled to extract sand and stones which they carry on their head and walk for 30 minutes on a steep and slippery path in order to bring the load to the truck at the roadside. At the most, they can make two trips with the loaded “doko” (a basket made of bamboo) and hardly earn 60 NRs a day. The baskets weigh approx. 30kg. From working in the cold river and due to carrying heavy loads twelve of eighteen women are found physically worn out – with backache and joint problems. Six of them have serious uterine ailments. Their access to healthcare is limited as the nearest health post is located two hours walk from the hamlet and they do not have money to pay for the services. Nutritionally these women hardly get to eat two meals a day and most of the time they have to make do with simple rice taken with “fado”, a mixture of water and wheat flour. This gets even more severe during the pre-natal and postnatal conditions with lack of diet and detrimental effects on the health and nutrition of both mother and child. There is a lack of protein intake (i.e. milk, egg, fish) during pregnancy. Women have to work during their entire pregnancies and also immediately after giving birth. These women do not have alternative work options and other income source. Hunger and malnutrition exacerbate these health problems. The women who are underpaid - their earning is even below the minimum wage per day declared by the local government - have to manage the daily food requirements of 4-8 family members as well as the health and educational needs of their children. Besides that, lack of drinking water supply for the 16 households and long waits for water collection also adds workload to these women.*

The State should take steps with a view to achieving progressively the full implementation of the right to adequate food - fore mostly access to resources and security of tenure of land, forest and fisheries (rivers) - especially for disadvantaged and marginalized groups (e.g. indigenous people, Dalits, HIV/Aids affected and other women among others). Integrating the right to food into policies and strategies is not sufficient; these groups should have the priority in public policies and strategies, with adequate budget and programs. Achievable benchmarks should be established to monitor progress and consistency with human right to food commitments and obligations, and disaggregated and regular monitoring systems should be created, which are participative and culture sensitive. Accessible and effective complaint mechanisms should be created and access to them should be ensured without discrimination, especially for marginalized and disadvantaged groups.

**Proposed Issue:** The Committee could ask the state which measures has the State party undertaken to increase the access to resources, security of land tenure and food of women, indigenous peoples, ethnic groups, fishers, forest communities, pastoralists, Dalits, etc. Which tools are there to monitor the progressive realization of the right to food of these groups and to ensure that no discrimination takes place? Which measures have been taken to abolish the jure or the facto discrimination of marginalized and disadvantaged groups?

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<sup>21</sup> Case documented by FIAN Nepal.

## 8. The right to food and access to forest and other natural resources of marginalized groups

### Background

Forest, forest resources, and other natural resources like water play a vital role in rural people's day-to-day livelihood and survival. The majority of these people are subsistence farmers who sustain their livelihood and supplement their income from the resources of the forest, river and wetlands. Restrictions imposed by the creation of National Parks, may severely limit their access to forest and resources and cause a detrimental effect on their livelihood.

*The Sonaha communities<sup>22</sup> represent one of the most endangered indigenous communities in Nepal. They lead a semi-nomadic lifestyle and their livelihood depends mainly on fishing and gold panning<sup>23</sup>. Since the establishment of Bardiya National Park in 1975, the livelihood of the Sonahas in Bardiya district has been further endangered by preventing them from fishing, gold panning, and restricting their access to collect forest produce. In Saijana village, Manau VDC, there are 42 households with approx. 300 Sonahas residing in the village. The stricter regulations and limited access to the park / river have drastically reduced their family income as many Sonaha women who also skilled gold panners were forced to stop abandon their livelihood skill, without any alternative possibilities to maintain their livelihoods. While establishing the park, participation of the Sonaha was not involved. Strict regulations imposed to this community have resulted in a threat in gaining adequate food for their families. There is no adequate policy to monitor the revenue generated from the national park for the development of local community. This community has been deprived of accessing the benefits generated by Bardiya National Park. In addition, the increase of non Sonaha fishing population, people bombarding and poisoning the river resulting in death of fish, exacerbates the threats towards the Sonahas' livelihood. As the state has not recognized the Sonaha community as a Janjati (indigenous) community, they are deprived of many facilities offered by the state to such communities. However, the process to enlist the Sonahas as an indigenous endangered community, according to the government's official records, has been initiated recently.*

*The right to food of 1377 Balapur villagers in Banke District is at risk after establishment of Sikta irrigation project and Banke National Park in May 2010. The village located at the buffer zone of Banke National Park is surrounded by forests, covering an area of about 200 bigha (6.6 hectares). Forest resources are the main source of livelihood income to the villagers. Farming lands, houses, livestock and grain storage are at risk of being encroached by wild animals. In addition to that, the villagers' lands also face the risk of inundation due to Sikta irrigation project. People understand the need for the extension of forest cover for a healthy environment. However, they strongly demand for alternative arrangements with appropriate resettlement in a suitable location and assurance of access to their sources of income and proper food. At present, no provision of alternative settlement was offered or compensation of other means of livelihood was provided by the Government of Nepal.<sup>24 25</sup>*

The State should ensure that indigenous and other communities feeding themselves from forests and fisheries are not evicted from their territories and prevented from access to natural resources because of the creation by the State of a national park or any other protected area, or any other industrial or development project. Prior to the launch of such projects, a *human rights* impact assessment should be carried out, affected communities should be consulted by the state, their free prior and informed consent should be given, their views should inform authorities decisions. The State should also ensure

<sup>22</sup> Case documented by FIAN Nepal, last update July 2013.

<sup>23</sup> A traditional method to extract gold from sand mixed with water.

<sup>24</sup> Urgent Action FIAN International, available at: [http://fian.satzweiss.com/cases/letter-campaigns/nepal-establishment-of-national-park-threatens-the-right-to-food-of-villagers-in-balapur/fcampaign\\_view](http://fian.satzweiss.com/cases/letter-campaigns/nepal-establishment-of-national-park-threatens-the-right-to-food-of-villagers-in-balapur/fcampaign_view)

<sup>25</sup> May 7, 2013: ASIAN HUMAN RIGHTS COMMISSION – HUNGER ALERT PROGRAMME - Hunger Alert Case: AHRC-HAC-006-2013.

that in case the project continues, livelihood alternatives in the same territory or adequate and integral compensation and resettlement are proposed to them and complied with, so that they will maintain access to the natural resources. Complaint mechanisms should be available during the entire process.

**Proposed issue:** The Committee could request the state to provide statistics on the displacement of persons as a result of Dam and development projects (e.g. factories), infrastructure development (e.g. roads, irrigation projects) and national parks and other protected areas and on information on measures taken to ensure that these projects will not negatively impact the ability of indigenous, agricultural and peasant and other affected communities to realize their right to adequate food. The state should also inform which complaint mechanisms are available to the effected or threatened communities.

## 9. The right to food of rural women

### Background

Despite high contribution to the agricultural production women in Nepal in particular rural women do not possess their own land for production; there is still startling discrimination against women in terms of ownership and assets.<sup>26</sup> With regard to access to forest resources, the role of women is still not adequately recognized in the Forest Act 2006, for example it does not adequately address participation of women in the Forest User Groups.<sup>27</sup>

The state should implement targeted programs to guarantee that women - in particular women with low income and resources, have equal right and ownership over productive land and security of land tenure. Further to this proportionate participation and representation of women in decision making mechanism is needed - starting from user groups on natural resources management e.g. forest, water, agriculture, VDC level planning, cooperative management etc. to policy level structures concerning women's access to productive and natural resources. Monitoring and accountability mechanisms have to be further strengthened at different levels to ensure compliance and to allow women being affected by discrimination in access to land and other natural resources to claim their rights and thus support to secure their right to adequate food and nutrition. State should adopt all necessary measures to guarantee the access to natural and productive resources including production related inputs to sustain an agriculture based livelihood in Nepal (specially focused on rural population) and give due recognition to women's contribution for it, including adequate remuneration. The role and contribution of women's work in natural resources activities should be recognized by the state in its legal regime.

**Proposed issue:** The Committee could request the state to provide information about steps taken to support rural and low resource / income base women belonging to marginalized and traditionally disadvantaged groups in accessing to and utilizing the natural resources they require their livelihood.

## 10. Labor and Income Opportunities

### Background

The labor law in Nepal guarantees "equal pay for equal work" for all persons in Nepal irrespective of the caste and gender. It is spelled out under article 13(4) of the Interim Constitution that there should be

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<sup>26</sup> National Women's Commission (NWC): [www.global-sisterhood-network.org](http://www.global-sisterhood-network.org)

<sup>27</sup> Giri, Kalpana: Gender in Forest Tenure: Prerequisite for Sustainable Forest Management in Nepal Brief #1 of 4 June 2012, available at: [http://www.rightsandresources.org/documents/files/doc\\_5220.pdf](http://www.rightsandresources.org/documents/files/doc_5220.pdf)

equal remuneration between men and women for the same work. Labor Act 1992 which is applicable in the formal sector, has made provisions on health, safety and security of labor, minimum wages, over time payment and other social security measures such as welfare fund, leave, compensation. It is noted that the local government - District Development Committee (DDC) has given the authority to determine the minimum wage of labor of informal sector in consideration of the economic status of the concerned district; nevertheless, such authority is still not fully utilized for the benefits of the affected communities. Also, under article 18 of the Interim Constitution, the right of employment of citizen is ensured. Despite this legal provision, marginalized and disadvantaged groups in Nepal are often being deprived of their labor rights as their participation in the work force is largely in the informal sector.<sup>28</sup> This situation is more pertinent in rural and remote areas of Nepal.<sup>29</sup> Without adequate remuneration allowing for an adequate standard of living for wage earners and their families, the right to food of the workers is at risk, and the workers are also physically worn out and further vulnerable to food and nutrition insecurity. Till date, monitoring by the government is lagging behind, likewise ensuring appropriate policies and legal frameworks along with the implementation of these legal provisions.

*The Kushbandiya community living in Indrapur VDC-3 of Banke district is an indigenous community classified as one of the most vulnerable communities. They have been residing in the area for more than 250 years as informed by an elderly Mr. Patwari Kushbandiya. Due to their extremely poor economic conditions and the lack of access to land they are vulnerable to violations of the right to adequate food. The major occupation of the community is making traditional stone grinders and weaving ropes (Sanpat), which they sell travelling through different parts of Nepal.*

*A total of 60 Kushbandiya communities reside within the whole Banke District. Although the state government has declared to provide social safety net allowance of Rs. 500 (5 Euro) per month per person for their livelihood support, this allowance is not adequate and also not available on a monthly basis. Government has not managed to install an adequate cash allowance distribution system for the Kushbandiya people.*

*Lack of income generation activities and programs, vocational skills and employment opportunities contribute further to the problem. The community demands for land, both for and shelter and agriculture, as well as for an increase of the monthly allowance and adequate food and education for their children<sup>30</sup>.*

The state authorities should adopt all necessary measures to protect marginalized and disadvantaged groups from third parties abusing their labor rights and therefore causing abuses of their right to food, adopt necessary affirmative measures for creation of opportunities for marginalized and disadvantaged groups to be able to enter into the formal sector, in particular in rural areas of Nepal. A monitoring committee, working under a human rights approach could be set up in each district to ensure that labor rights are not violated.

**Proposed issues:** The committee could request information on which are the programs and strategies in order to provide employment and income generating opportunities to rural population, in particular disadvantaged and marginalized groups like e.g. Dalits, indigenous people, women etc. and which measures are taken to ensure an adequate minimum wage, which allows people to live a dignified life. Furthermore, which measures are adopted to implement the labor laws and which complaint and monitoring mechanisms are available to allow people to hold their authorities accountable.

<sup>28</sup> Case based discrimination in South Asia: A study on Nepal, [http://idsn.org/fileadmin/user\\_folder/pdf/Old\\_files/asia/pdf/RR\\_Nepal.pdf](http://idsn.org/fileadmin/user_folder/pdf/Old_files/asia/pdf/RR_Nepal.pdf)

<sup>29</sup> International Labour Organisation: Informal Economy; available at:

<http://webcache.googleusercontent.com/search?q=cache:MtctpD0ralgJ:www.ilo.org/kathmandu/areasofwork/informal-economy/lang--en/+&cd=4&hl=de&ct=clnk&gl=de>

<sup>30</sup> Case documented by FIAN Nepal.

## 11. Access to Water - Drinking and Irrigation

### Background

In Nepal, the policies, programs and plans for improvements and investments in water are based on division between domestic and productive water. In fact, this division produces a discriminatory effect. Therefore the livelihood and health of the peasants especially from rural and remote areas and in particular the women are often deprived due to water shortage.<sup>31</sup> Most of the programs are concentrated on the urban areas. Women are normally the family members responsible of collection and transport of water, putting an extra burden on them.

*In Mugu district, 332 women in Hangloyu VDC and 1747 in Rugha VDC<sup>32</sup> are facing severe shortage of drinking water, as there is no proper water supply system from the government. The women have to spend nearly two hours walking (10-15 kilometers), every single day to fetch drinking water from the river Karnali, which is according to district drinking water supply office a non safe source for drinking water. Hence, the use of water from river Karnali has led to water borne diseases among the villagers. However, ensuring adequate water is a huge responsibility of women in the community in order to meet the families' demand for water. Women are the collectors, users, managers and often guardians of the water resource required for the household tasks e.g. drinking, cooking, washing, and child caring. The fetch of large amount of water from long distance walk with empty stomach has resulted in physical (e.g. vomiting) and mental stress which is grossly sidelined. Furthermore, lack of access to water resources has significant negative implications on women's education and health due to long hour consumption of time for water fetching. Although the women have through some of their village leaders requested the local government / VDC to install a safe and accessible drinking water supply system in their village for the past five years, first actions have only been initiated after sustained struggle of the women. Recently the District Agriculture Office has allocated a budget for the drinking water supply scheme.*

*Haphazard excavation activities of stone, and sand by a crusher company has affected the livelihood of communities in six VDCs.<sup>33</sup> As a result of the haphazard excavation activities at the bank of Gwarkhola rivulet in Dang district the water level of the river was lowered, which affected the water passage of 16 irrigation canals fed by the river. This has directly affected the livelihood of 19,000 households from Halwarpur, Bijaure, Manpur, Duruwa, and Tarigaun VDCs who depend on the irrigation canals for agriculture. With the support of FIAN Nepal and Dang District Right to Food Network, the struggle committee in early January 2012 has successfully raised their concern to the responsible authorities. The operation of the company and its machines was halted after the cut of electricity supply by District Administration Office. In April 2012, the District Development Committee has suspended the tender for stone and sand excavation from Gwarkhola rivulet. However, constant monitoring is required, also with regard to the fact that apart from Gwarkhola, 17 other rivers in Dang district are similarly affected. A district network on river and irrigation dam affected people is at present initiating such monitoring work.*

<sup>31</sup> The investments of the Government of Nepal in urban water supply and sanitation are primarily guided by its Twenty-Year Vision (1997-2017), which seeks for countrywide or overall coverage by 2017, and the National Water Plan. Government's 3 Year Interim Plan (2007- 2010) as well as the Urban Water Supply and Sanitation Sector Policy, August 2008, provide the most recent guidance on urban sector priorities highlighting, in particular, the need to address the effects of rapid urbanization on service levels, water quality and scheme maintenance. The Local Self Government Act (1999) provides the legal basis for the devolution of responsibilities and authorities for social, economic, institutional, and physical infrastructure development, including water and sanitation systems, to local government. While periodic district plans have been formulated in 52 districts a decade long political conflict, including the absence of locally elected officials for most of this period, have frustrated implementation plans.

<sup>32</sup> Case documented by FIAN Nepal, last update June 2013.

<sup>33</sup> Case documented by FIAN Nepal, last update June 2013.

The state of Nepal should adopt all necessary legal, policy, implementation and monitoring measures necessary to ensure the access of all rural people to water in conditions of dignity. Most of the programs related to water supply and sanitation, are still concentrated on the urban areas. The differentiation on water regulations for rural and urban areas is hindering further the traditional impediments on access to water in rural areas. This affects especially women and girls, who traditionally are responsible to reach to water sources and fetch /carry water.

**Proposed Issue:** The Committee could ask the state which programs and strategies are adopted and are being implemented to ensure the access of all, in particular rural people, to water in conditions of dignity and according to the General Comment No. 15 of the CESCR and which monitoring and complaint mechanisms are available to maintain the competent authorities accountable.