



# ESCR

YEARBOOK 2022

## Situation of Economic, Social and Cultural Rights of Freed Haliyas in Sudurpaschim Province of Nepal

Felm 1859



EUROPEAN UNION

The project is funded by the European Union.





Community Monitors being trained on practical knowledge of conducting monitoring activities and use of ESCR mobile app



Community Monitors collecting the ESCR data from the freed Haliyas

# Situation of Economic, Social and Cultural Rights of Freed Haliyas in Sudurpaschim Province of Nepal

**ESCR**  
YEARBOOK 2022



**Campaign for Human Rights and Social Transformation, Nepal  
(CAHURAST), Nepal**

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A situation of house of Mina Sarki, one of the beneficiaries of ADHICAR Project who is from a freed Haliya family, temporarily taking shelter in the trust land at Kapalleki, Shikhar Municipality-01, Doti district of Sudurpaschim Province.

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काठमाडौं, नेपाल

प्रधानमन्त्री

शुभकामना सन्देश

नेपाल सरकारले २०६५ भाद्र २१ गते पश्चिम नेपालमा बाँधा श्रम तथा दासप्रथाको अवशेषको रूपमा रहेको हलिया प्रथाको अन्त्यको घोषणा गरेको एक दशकभन्दा बढी समय बितिसकेको छ। हलिया मुक्तिको घोषणापश्चात् सरकारले मुक्त हलियाहरूको तथ्याङ्क संकलन, प्रमाणीकरण, वर्गीकरण र पुनःस्थापनाको कार्यक्रम अघि बढाएको सबैलाई जगजाहेर नै छ। नेपाल सरकार नेपाली नागरिकका आर्थिक, सामाजिक तथा साँस्कृतिक अधिकारका साथै समग्र मानव अधिकारको संरक्षण, सम्बर्द्धन र परिपूर्ति गर्ने सम्बन्धमा प्रतिबद्ध छ। पुनःस्थापनाको समयावधि लम्बिदै जाँदा मुक्त हलियाहरूको व्यवस्थापन, शिक्षा, स्वास्थ्य, रोजगारी, आयआर्जन, दिगो जीविकोपार्जन, सामाजिक सशक्तिकरण र समावेशीकरण सम्बन्धी मुद्दा समाधानका क्रममा देखा परेका जटिलताहरूका बावजूद पनि नेपाल सरकारले उक्त विषयहरू सम्बोधन गर्न निरन्तर प्रयास गर्दै आइरहेको छ। समाजमा सबैभन्दा पछाडि पारिएको मुक्त हलिया समुदायको सामाजिक न्यायसहितको दीगो पुनःस्थापना, गरिबी र अभावबाट मुक्त गरी राज्यको मूलधारमा ल्याउन सकेमात्र गणतान्त्रिक नेपालले सार्थकता र पूर्णता पाउने देखिन्छ।

यी सबै तथ्यलाई मध्यनजर गरी यस मन्त्रालयले मुक्त हलियाहरूको समस्या समाधानका लागि एक वर्षअघि अध्ययन समिति गठन गरेर कार्यप्रक्रिया अघि बढाएको थियो। अध्ययन समितिको विस्तृत प्रतिवेदनसमेत मन्त्रालयमा प्राप्त भएको छ। प्रतिवेदनका आधारमा मुक्त हलियालगायत कृषि बर्धुवा श्रमिकहरूको लगत संकलन, सत्यापन, परिचयपत्र वितरण, पुनःस्थापना, सामाजिक विभेदको अन्त्य, मर्यादित जीवन, सामाजिक सशक्तिकरण, समावेशीकरण, शिक्षा, स्वास्थ्य, रोजगारी लगायतका मुद्दाहरू सम्बोधन गर्न मन्त्रालयले कार्यविधि र कार्ययोजना तयारीको काम अघि बढाएको छ। लक्षित वर्गका मुद्दाहरू सम्बोधन गर्न मन्त्रालय प्रतिबद्ध रहेको छ।

अन्तमा, मुक्त हलियाहरूका सम्पूर्ण गतिविधिहरू समेटेर उक्त क्षेत्रमा भए गरेको कार्यहरूलाई व्यवस्थित दस्तावेजीकरण गर्ने उद्देश्य लिई "सुदूरपश्चिम प्रदेशका मुक्त हलिया तथा अपाङ्गता भएका व्यक्तिहरूको आर्थिक, सामाजिक र साँस्कृतिक अधिकारको अवस्था" नामक वार्षिक पुस्तक प्रकाशन गर्न लागेको जानकारी पाउँदा मलाई खुशी लागेको छ। यो काम आफैमा रचनात्मक र प्रशंसनीय छ। यस किसिमका रचनात्मक कार्यहरूमा मन्त्रालयको सधैँ साथ र सहयोग रहने प्रतिबद्धता व्यक्त गर्दै हार्दिक शुभकामना व्यक्त गर्दछु, धन्यवाद।

१५ फागुन २०७९

Yavs  
पुष्पकमल दाहाल 'प्रचण्ड'



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# Joint Statement

The ESCR Yearbook 2022 is evidence-based documentation on the Economic, Social and Cultural (ESC) rights of the freed Haliyas with a special focus on women and persons with disabilities. It is among the most significant milestones of the “Freed Haliya Empowerment Project” funded by the European Union and co-funded by Ministry of Foreign Affairs of Finland.

This yearbook aimed to provide an empirical and rigorous understanding on how the ESC rights of Haliyas are realized in the Sudurpaschim Province of Nepal. The study was made possible by the active participation of rights holders –service seekers and duty bearers- the service providers during the data gathering. The data gathered via an innovative mobile app was the key to construct fact-based policy recommendations to ensure that all freed Haliyas have their rights to development respected in health, education, work and housing - as stipulated in the Constitution of Nepal, national laws and international human rights instruments.

Precisely, this yearbook builds on knowledge obtained in the previous yearbooks and the diverse relationships to both Haliyas as rights-holders and duty-bearing authorities in different scales on governance. We are pleased to come together as consortium partners to express our utmost gratitude for the positive responses and the support that we have received, especially, coordinating and collaborating closely with relevant Rural Municipalities, Municipalities, and district level authorities, and the freed Haliya communities.

We hope to strengthen our relationship with National, Federal, and Provincial initiatives to work jointly towards sustaining local level projects and programmes to enhance the life of freed Haliyas.

Finally, we would also like to thank each and every individual who has given their valuable time and shared their personal experiences to assist us in collecting rigorous data to be able to draw conclusions about the human rights situation of diverse freed Haliya communities in Sudurpaschim Province of Nepal.

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## Acronyms and Abbreviations

CAHURAST	Campaign for Human Rights and Social Transformation
CM	Community Monitors
ESC	Economic, Social and Cultural
Felm	Finnish Evangelical Lutheran Mission
FGD	Focus Group Discussion
GBV	Gender Based Violence
HHs	Households
HQ	Headquarter
ILO	International Labor Organization
ICESCR	International Covenant on Economic, Social and Cultural Rights
ID	Identity Card
KII	Key Information Interview
LWF	Lutheran World Federation
NGO	Non-Governmental Organization
MS	Microsoft
NHRC	National Human Rights Commission
OHCHR	Office of the High Commissioner for Human Rights
OPMCM	Office of the Prime Minister and Council of Ministers
PIL	Public Interest Litigation
PwDs	Persons with disabilities
RHD	Referral Help Desk
RMHSFN	Rashtriya Mukta Haliya Samaj Federation Nepal
SDG	Sustainable Development Goal
UN	United Nations
UPR	Universal Periodic Review

# Foreword

Campaign for Human Rights and Social Transformation (CAHURAST), Nepal has been established as a campaign to safeguard human rights of the people of Nepal with the special focus on economic, social and cultural (ESC) rights of the grass root people.

Nepal Human Rights Commission (NHRC) has given priority to protect and promote ESC rights particularly of the marginalized and vulnerable social and cultural groups of the society. Because it has been recognized that human rights cannot be fully respected before the ESC rights of individuals and communities are guaranteed. As subsequent measure, indicators for monitoring ESC rights in Nepal have been developed.

CAHURAST Nepal in partnership with Felm Nepal, Lutheran World Federation and RastriyaMuktaHaliyaSamaj Federation has implemented the Freed Haliya Empowerment Project (ADHICAR) with the intention to protect and promote ESC rights of freed Haliyas, who are ex-bonded laborers and one of the most marginalized communities of Nepal. This project is funded by the European Union and co-funded Ministry for Foreign Affairs of Finland. We gratefully acknowledge for their support to bring the ESCR yearbook 2022 that includes evidence-based results of ESC rights monitoring conducted by the community monitors, help desk focal persons and fact finders of Sudurpaschim Province of Nepal.

ESCR Yearbook 2022 presents the situation of freed Haliyas with a special focus on women and Person with Disabilities (PwDs) within Haliyas of 15 Municipals of five districts of Sudurpaschim Province under four major ESC thematic rights – right to education, right to health, right to decent work and right to housing/rehabilitation service. The yearbook is based on the ESC rights documentation of 2022 and application of experience and lessons learnt from previous years. The continuity of this publication series has been possible with intense efforts of all members of ESCR team of projects including the data enumerators and data providers – the freed Haliya community and the rights holders of the Sudurpaschim Province. We are overwhelmed with gratitude and humility to express our gratitude to all those who have assisted us in taking our thoughts beyond the level of simplicity and turning them into something tangible.

The experts are expected to provide constructive feedback and suggestions for the future improvement.

**Hukum Prasad Pokhrel**  
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# Executive Summary

## Study Background

Nearly two decades have passed since the abolition of the Haliya system in Nepal. Though they had been liberated from their structural bondedness, they are still to be liberated from poverty and socio-cultural bondedness. The freed Haliyas are still struggling for dignified livelihoods. Being from the lowest caste hierarchy i.e., 97% Dalits communities, they are facing multiple vulnerabilities that hindered their development and hindered them from prospering for generations. Dignity and justice are far from their reach, instead, they face a vicious cycle of poverty.

*Haliya is a system of agricultural bonded labor that prevailed in 12 western hill districts of Karnali Province and Sudurpaschim Province of Nepal. Haliyas are mainly from the hill Dalit group. 95% of Haliyas are Dalit and 5% from other castes. The system was prevalent in Karnali and Sudurpaschim province of Nepal.*

*Haliyas used to work for their landlords for generations to repay the debt taken by their forefathers. Haliyas are socially and economically deprived. After signing a five points agreement with the Haliya Organization, Nepal government abolished the Haliya system in 2008 and freed them from debt bondage and the Haliya system.*

The Constitution of Nepal 2015 has given ample opportunities to enjoy fundamental rights of the people. From article 16 to article 46 of the Constitution, 31 fundamental rights of the people are guaranteed, including ESC as fundamental rights of the people. The Constitution recognizes a range of ESC rights as legally enforceable human rights, and laws and policies are provisioned aligning with ESC rights. However, despite policies and provisions on ESC rights, enforcement remained weak, including monitoring and documentation of the violations of ESC rights. The most disadvantaged and marginalized people like freed Haliyas, Dalits, etc. are still far from realizing these rights and entitlements.

Though the freed Haliya issues have been reflected in UPR recommendations, the weak realization of these issues shows a need of evidence-based documentation and advocacy at local, provincial, national and international level. The “ESCR Yearbook” is a product of an empirical study carried out to establish evidence for monitoring and documenting the implementation situation of the ESC rights. The study focuses on the ESC rights of the Freed Haliyas in general and intersectional analysis of freed Haliyas women and people with disabilities within freed Haliyas specifically. The study was focused on the

Right to Education, Right to Health, Right to Decent Work and Right to Rehabilitation of freed Haliyas. The data and information was gathered through citizen led monitoring which was then substantiated by fact finding missions and cases. The mobile application was used for data collection.

The five districts of Sudurpaschim province were the study area for data and information collection. The data was collected from 7,982 respondents who were right holders and 211 duty bearers who were randomly chosen for the study. The study was carried out from October 2021 to November 2022 and the mobile app was used for collecting the information. Similarly, the monitoring mechanism was set up in the field for understanding implementation situation of ESC rights, and violation of rights. Key informant interviews were also conducted with the Haliya leaders, political leaders, and other key stakeholders during various consultations. The analysis and interpretation of the empirical data gathered from the field was done through critical review of primary data and secondary data/information. Meetings were conducted with different key stakeholders including freed Haliya and district chapters, Government of Nepal, and other stakeholders. These were help to verify the information for drawing key findings, and recommendations. The key findings and recommendations are:

## Right to Health

Access to health is still a big challenge to freed Haliyas though gaps are of different magnitudes. There is a huge variation according to geographic region, which necessitates governance to tailor spatially specific solutions. 71% of the freed Haliyas are not adequately accessing health services provided by the government and 18% of the freed Haliyas feels they are discriminated against in accessing health services. Poor health facilities including the number of qualified health personnel are the main reasons for the inaccessibility of the health services. The financial situation of the right holders is also one of the hinders preventing access to health services. Moreover, 93% of the freed Haliyas faced a lack of emergency health care support during COVID-19.

## Right to Education

Access to education to freed Haliyas' school aged children seems comparatively better. 70% of the freed Haliyas children have access to education. However, school going children in rural areas still face caste-based discrimination from peers and teachers. 85% of the PwDs within freed Haliyas have access to the schools which is comparatively higher than other target groups. However, still some lapses have been reported such as school infrastructures is not accessible or child friendly. Despite free education until primary level, schools are charging additional fees such as electricity, exam fees, and other utility costs which are also difficult for people with poor economic background.

## Right to Decent Work

Decent work improving their livelihood is one of the keys to freed Haliyas as their freeing directly relates to delinking their livelihood means. Their survival strategy after being freed mostly depends on agriculture i.e. farming and livestock and work force i.e. agriculture labourers, seasonal labour migration to India, etc. Regarding the workforce, 48% among men

and 46% among women are working more than 8 hours a day. There is a differentiation in wages between men and women for the same level of work. One of the miserable situations is 17% freed Haliyas are willingly or unwillingly have to choose to be Haliya.

## Right to Housing/Rehabilitation Package

Access to rehabilitation package depends on registration and access to Haliya ID, and many freed Haliyas are still to receive the ID cards. 95% of the respondents faced difficulties in accessing the rehabilitation package service. Due to this, only one third of freed Haliyas have received the rehabilitation package. Even the freed Haliyas who have received a rehabilitation package are not satisfied with the package given and claimed it is insufficient to adequately run their household.

The study revealed that the freed Haliyas' identity cards are vital to access all the rights and entitlements of the freed Haliyas, and the government is delaying the process of freed Haliya registration, verification and providing ID cards.

## Key Recommendations

Based on the findings of the study, recommendations are made for three tiers of the Government, for the enjoyment of the ESC rights by freed Haliyas. The recommendations are provided on four major thematic areas of the ESC rights surveyed under the ADHICAR project and based on the data set obtained from ESC rights monitoring by citizen-led community monitoring.

The local level government is more responsible and better suited to solve the freed Haliyas' issues at the grassroots' level. Some recommendations are specified on the four surveyed themes of ESC rights. However, Provincial level Government has less impact and comparably, Federal level has the highest power on formulating and enforcing the law and its national and international obligations and commitments. Therefore, recommendations are categorized accordingly.

## Recommendations for Local Level Government

### ▶ Right to Education

- The physical infrastructure of schools and roads connecting the freed Haliyas to the community schools/ public schools should be disability and child friendly.
- Local Government should allocate special quotas for freed Haliya children (especially up to the undergraduate level).
- Children of freed Haliyas should be waived from paying the additional fees/ charges that are levied by the schools including electricity and exam fee charges in order to ensure their access and continuation of their studies at school

### ▶ Right to Health

- Organize Mobile Health Camps once in three months within the Haliya community. It is important that the health camps are have a balanced participation based on gender and socio group. Moreover, the health professional or medical officer should make visits as part of his/her service to reach the most vulnerable group of communities – women and PwDs.

- Nearly 95% of the Haliyas are living below the poverty line. Therefore Municipalities should bring a provision of special health service quota for the freed Haliyas (100% fund managed by Municipalities for the freed Haliyas suffering from chronic diseases or Municipalities can link to the concerned authorities for the free treatment support)
- Health centres should be equipped with experienced health professionals and adequate supplies of the 35 free medicines provided by the Government. The centre level health unit should regularly monitor whether the medicines and services provided at health centres are adequate and are reaching the freed Haliyas and other disadvantaged communities.

#### ▶ **Right to Decent Work**

- The Government needs to identify and make an inventory profile of the freed Haliyas who still have to work as Hali
- Duty bearers are recommended to prioritize to support to each Haliya household with employment opportunities – One Household One Employment provision
- Municipalities should monitor the wages that are being provided to Haliyas, and evaluate the levels of safety, security and protection at work.
- Equal wages for similar nature of work regardless of gender and caste should be strictly monitored and enforced.

#### ▶ **Right to Housing/Rehabilitation Package**

- Municipalities are recommended to have adequate instruments and resources to secure the effective implementation of rehabilitation services
- Municipalities should immediately initiate data collection, verify with real Haliyas and proceed with registering names to provide Haliya ID cards. It is also recommended to re-evaluate the categorization of the ID cards issued earlier in order to provide justice to the rights holders.
- The general practice of the rehabilitation package amount is not sufficient. An integrated rehabilitation package should be provided for the identified Haliyas with easy and affordable access to electricity, drinking water and security.
- The data sets brought up by the Haliya Federation should be taken as reference by municipalities for further verification to be carried out by the government.

#### ▶ **Recommendations for Provincial Level Government**

- Provincial level Government should guide the local government in the implementation of rehabilitation services and the commitments made while declaring freedom for the freed Haliyas. It needs to develop policies and plans covering the whole province, focusing on freed Haliya-affected municipalities;
- Provincial Government should also allocate budget periodically for freed labourers and provide grants to the local government as special programme for freed Haliyas;
- Ensure participatory policy making, planning, budgeting and implementation focusing on the most vulnerable and marginalized communities;

#### ▶ **Recommendations for Federal Level Government**

- Federal Level Government should update or change the amount of the rehabilitation package distributed to the Haliyas as per the time (year). NPR 3 lakh is not sufficient. Moreover, an integrated rehabilitation process should be focused on improving the situation of freed Haliyas in the Integrated bonded labor act.



- The freed Haliya rehabilitation Guidelines, Action Plan and Integrated bonded Labor Act that have been prepared by the Haliya Federation should be passed or enacted by 2025 latest.
- The federal government is recommended to re-evaluate the implementation status of the free Haliya initiative and ensure that its national and international commitments and obligations for the fulfillment of the ESC rights of the freed Haliyas are met.
- The Government of Nepal should also allocate budget periodically for freed labourers and provide grants to the local and provincial government as a special programme for freed Haliyas;
- Ensure participatory policy making, planning, budgeting and implementation focusing on the most vulnerable and marginalized communities



# CHAPTER 1

## Introduction

### 1.1. Background of the Study

Economic, Social, and Cultural (ESC) rights are fundamental for the dignified living of human beings. These rights are not only recognized but also protected by international human rights instruments. UDHR 1948 and ICCPR 1966 are the key international human rights instruments in which ESCR are protected as the fundamental rights of people. Nepal is a party to the key international human rights treaties including International Bill of Rights. By being a party to the international human rights treaties it has responsibility to respect, protect and fulfill all rights enshrined in the international instruments.

To consolidate these rights, the Government of Nepal (GoN) has ratified the covenant on ESC rights and has guaranteed ESC as fundamental rights of the people in the Constitution of Nepal, promulgated in September 2015 by the Constituent Assembly. The Constitution of Nepal recognizes a range of economic, social, and cultural rights as legally enforceable human rights, and laws and policies are provisioned to align with ESC rights. Despite the enactment of policies and provisions relating to ESC rights, the most disadvantaged and marginalized communities such as Haliyas are unable to realize these rights and entitlements. This case is clearly pronounced in Freed Haliyas who were engaged in a Haliya system (a forceful bonded labor system) for centuries. Such exploitative haliya system was built upon - and upheld by - the informal caste-based discrimination that prevails in Nepalese society.<sup>1</sup>

Despite the GoN abolishment of Haliya system in 2008 and with several positive initiatives, the rehabilitation of the freed Haliyas is still far from realization. Out of 16,953 freed Haliyas, only 13546 have been rehabilitated and more than 15,000 freed Haliyas are still out from the government records and few of them still being exploited as Haliya.

Ironically, 95% of the freed Haliyas<sup>2</sup> are Dalits. Dalits are one of the most disadvantaged groups in the social, educational, political and religious spheres in Nepal and are deprived of basic human rights and social justice due to deep rooted caste-based discrimination and untouchability (CBDU) in Nepali society. The cultural and social discrimination have intertwined in a vicious way to economic injustice that Freed Haliyas have faced in Nepal - a hindering factor for the enjoyment of ESC rights. The Universal Periodic Review (UPR)<sup>3</sup>

<sup>1</sup> Bishwakarma, M. 2017. Democratic politics in Nepal: Dalit political inequality and representation, *Asian Journal of Comparative Politics*, 2(3), pp. 261–272. doi: 10.1177/2057891116660633.

<sup>2</sup> ILO, 2013. International Labor Organization, Forced Labor of Adults and Children in the Agriculture Sector of Nepal.

<sup>3</sup> UPR (Universal Periodic Review) is a new human rights mechanism which is intended to complement, not repeat the work of the human rights treaty bodies.

reports and periodic assessment of the human rights situation in the country have also revealed that the Haliyas issues are not taken care seriously. Meanwhile, the 3<sup>rd</sup> cycle of UPR Report of Nepal submitted by the Office of the Prime Minister and Council of Ministers to the Human Rights and Treaty Division of the Human Rights Council on 12 October 2020, mentioned that “The Government of Nepal has completed the distribution of land to the Haliyas.” This clearly shows a need for evidence-based documentation to advocate at local, provincial, and National to let heard the issues of Haliyas at International level-globally.

ESCR Yearbook 2022 builds on the diverse relation of rights holders on demanding their entitlements and accountability of the duty bearers. This book is the continuation of ESCR yearbook 2021 and demonstrates the differences and similarities on the situation of ESC rights of the Haliyas and persons with disabilities (PwDs) within one-year time gap.

## 1.2. Objective of the Study

The overall objective of the study is to bring evidence-based documentation in the form of ESCR Yearbook. The growing evidence-base on the human rights challenges can be used as a tool to advocate for the urgent need of respecting, protecting and fulfilling ESC rights of the most disadvantaged group: freed Haliyas, with a special focus set on women and PwDs within Haliyas.

Specifically, the study report attempts to assess:

- ▶ Situation of freed Haliyas and PwDs in terms of four thematic areas of ESC rights (Right to Health, Right to Education, Right to Decent Work, Right to Housing/ Rehabilitation service) and forms of discrimination within them and
- ▶ Accountability of the duty bearers on the Haliya issues in relation to existing laws and policies

## 1.3. Scope of the Study

ESCR Yearbook 2022 is impartial evidence based documentation and analysis that uses data gathered by trained community monitors within the freed Haliya group. The study focuses on the ESC rights of the freed Haliyas in general and intersectional analysis of Haliyas women and PwDs within Haliyas in particular. Among several ESC rights, Right to Education, Right to Health, Right to Decent Work and Right to Rehabilitation were found pertinent and were primarily focused in the study.

In 2011, National Human Rights Commission of Nepal (NHRC), has developed a guidebook on indicators for monitoring economic, social and cultural rights in Nepal. The indicators were developed for selected rights – the right to adequate housing, right to health, right to education, right to work and right to food. The monitoring has been carried out using similar indicators. One of the reasons to select these thematic areas was based on past experiences of the project. The other reasons are the results of the research conducted by the project in the past as the findings of the previous research highlighted that the prominent issues of Haliyas are their housing –the rehabilitation service which are unheard by the government authorities; and because of high percentage of being a Dalit, they are also deprived from easy access to health and education. In addition, the Haliyas are found to be discriminated at the work place.

Despite the fact that Haliya system is prevalent in twelve (12) districts of Sudurpaschim Province, the study was limited to five (5) districts viz. Kanchanpur, Doti, Dadeldhura, Baitadi and Bajhang. These districts give distinctive indication of Freed Haliyas of Sudurpaschim Province and do not represent the entire country's ESC rights situation.



In order to reflect the entire freed Haliyas of Sudurpaschim province, the monitoring sites were purposively selected based on following factors:

- ▶ Higher percentage of freed Haliyas and PwDs in selected districts and local entities within
- ▶ Comparably low percentage of freed Haliyas and PwDs are in reach to rehabilitation service and entitlements
- ▶ Uniformly represents three geographical regions to reflect entire Sudurpaschim Province (Provincial indicative)

## 2.2. Data Collection

The data for the study was collected from both primary and secondary sources. Quantitative and qualitative tools were used in collecting data.

### 2.2.1. Quantitative data collection

A Household survey targeted to the freed Haliyas was carried in 15 municipalities of 5 project districts of the Sudurpaschim province. An innovative mobile app – ESCR mobile App is used for the quantitative data collection.

#### An ESCR Mobile App

ESCR mobile app (Figure 2) has been designed to collect the ESC rights data for assuring the quality and reliability during the data collection. At first, two sets of questionnaires were designed for two different types of stakeholders under the study: a semi-structured questionnaire was designed for the household survey with rights holders and a structured interview questionnaire for the duty bearers. Both sets of questionnaires were adjusted in the ESCR app and linked to the kobo tool. Kobo tool is a free and open suite of tools for field data collection for use in challenging environments and humanitarian crisis. It helps the users to:

- ▶ Build a data collection form or survey (Generally recommended XLS forms for larger forms)
- ▶ Collect the data on a mobile device and send it to a server, and
- ▶ Aggregate the collected data on a server and extract it in useful formats

The data gathered in ESCR app when submitted, it immediately is seen on the web form of kobo tool. The data is imported from the kobo tool in the excel analyzer form. Kobo itself is one of the data analysis tool which enables easy creation of figures and graphs of quantitative data set in the form of value, frequency



Figure 2: ESCR Mobile App

and percentage. However, it was a superficial analysis which also supported to cross check the detailed analysis done by the excel analyzer form.

The use of digital tools for data gathering has proliferated in empirical social sciences and has proven best to link technology with human rights for improved situation of human rights.

Seven community monitors who had knowledge of the Haliya system and the movement were purposively selected in inclusive manner from the Haliya community to collect the quantitative data.

CAHURAST trained them well in the methods of data collection using the ESCR app and safeguarding and ethical considerations to be followed while administering the interviews in order to maintain data quality. Having the monitors from the same community had added advantages as they have no language and cultural barriers and they could express themselves freely. This rights holder led approach worked well in the ESC rights monitoring that forms the basis of this report.

Altogether, 7982 data were collected this year through household survey by 7 community monitors.

### **2.2.2. Qualitative data collection**

Qualitative data was gathered through the referral help desk mechanism and fact finding mission.

#### **Referral Help Desk Mechanism**

Referral Help Desk Mechanism was approached to handle the cases of the human rights violation of the target group. Each project district has a help desk section managed by the referral help desk focal person. The focal person in coordination with the community monitors collected the qualitative sets of information. This information was then developed as a case. The cases developed were about the human rights violation against the freed Haliyas, women within Haliyas and PwDs within freed Haliyas focusing mainly on the right to education, right to health, right to decent work, right to housing/ rehabilitation package entitled for freed Haliyas and legal identity issues – both citizenship and the Haliya ID cards.

Altogether, 57 cases were registered at help desk sections. Majority of the cases were about the legal identities and discrimination issues. The focal persons supported in the administrative procedures to solve these cases. A series of follow ups were conducted for these discrimination cases against Haliyas.

#### **Fact Finding Mission**

Fact finding mission has been conducted with an objective to verify the information brought up by the community monitors and referral help desk focal persons. For this, two lead fact finders and 6 supporting fact finders were mobilized to reach 15 Municipals within two months' time period.



Following methodologies were used during the fact finding mission:

▶ **Observation**

General observations were made in every municipality to see the beneficiaries' contextual situation, actual circumstances and living conditions.

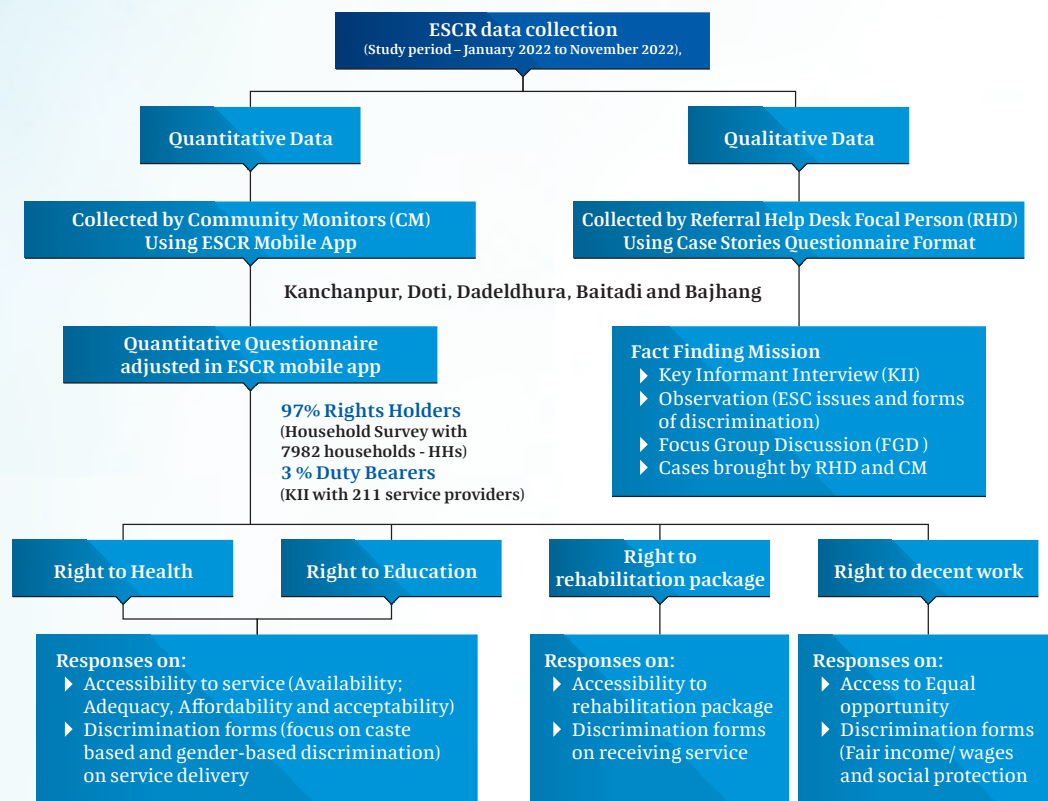
▶ **Key Informant Interview (KII)**

A set of checklists were developed to collect qualitative information from the duty bearers and Haliya leaders. Two to three KIIs were carried out in all the 15 municipalities (both urban and rural) of the five districts. Altogether, 44 KIIs were carried out with the duty bearers and freed Haliya leaders. They included 13 elected representative (Jana Pratinidhi), 2 district administrative officials, 4 municipal staff from the education and 4 with the health units-, 6 woman, children and senior citizen unit officials, 5 revenue office staff and 10 Freed Haliya leaders. The KII checklist included information related to the current situation of the Freed Haliyas, the effectiveness of the rehabilitation package, social relationships of Haliya community, local level support, the main issues with the peoples with disabilities (PwDs), and the situation of the education amongst the Haliya community and their children.

▶ **Focus Group Discussion (FGD)**

Altogether 15 FGDs were carried out (one each in 15 municipalities) with 10–20 participants, including key beneficiaries with a focus set on women and PwDs. A checklist was prepared to guide the discussion. In most of the FGDs conducted, female participants outnumbered male participants. The participants were requested to share their experience about the their problems, challenges and barriers including the wage disparities, living standards of the Haliyas, effectiveness of the rehabilitation packages, social and political participation, relationships between landowners and the Haliyas, and the current situation of the Haliyas and PwDs.

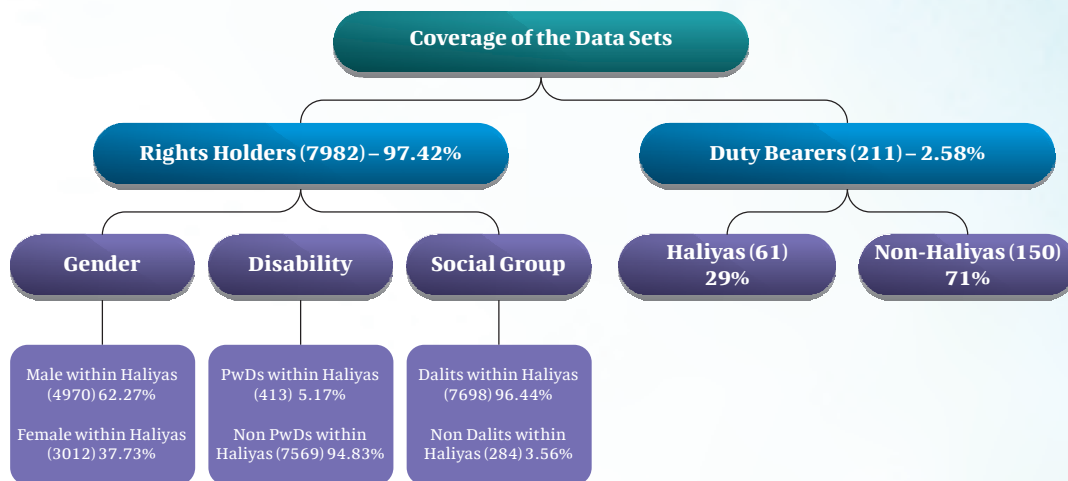
## Data Collection Flow Figure



## 2.3. Data Analysis

Precisely 10,760 respondents participated under ADHICAR project in the period of October 2021 to November 2022. Out of this number, the data was collected from 2567 freed Haliyas (including women and PwDs within Haliyas) in between October 2021 to December 2021. This data was analyzed and the results were documented in ESCR Yearbook 2021 published in March 2022. Previous year, the data set was focused on the freed Haliyas households to gain the baseline information on their ESC rights situation before consultation with the duty bearers on the Haliyas issues.

This year, apart from the freed Haliyas households whom we have considered as the respondents from rights holders the study has been extended by incorporating the duty. This approach has enhanced this study in terms of comparing different perspectives from the rights holders and duty bearers. Ultimately, the clear insights obtained from this process has added in implementing the actions required for improving the ESC rights situation of the freed Haliyas. The study covered 7982 households (rights holders) and 211 duty bearers (from Municipalities, health institutions, education institutions and land reforms).



**Figure 3: Categorization of respondents of study**

### 2.3.1 Data Quality Control

The data analysis is totally based on the ESC rights data set gathered through an innovative ESCR mobile app, a data collection tool. This app is linked with Kobo tool. So, all the quantitative data sets on ESC rights gathered by community monitors were analyzed in Kobo tool in different formats including the excel format. MS Excel was extensively used for data analysis as well.

The first step of data analysis was to export the ESC rights data set from kobo tool to excel format. In few cases of data errors and in-consistencies, the monitors were instructed to consult with the respondents and update with an accurate data.

### 2.3.2. Data Tabulation

The responses received were then structured into the entire survey questionnaire on the key parameters such as accessibility of service and entitlements, discrimination issue and COVID response on rights holders and additional base – an accountability of duty bearers on providing services. The analysis was done based on gender, socio-group and gender related phenomenon and were categorized accordingly. However, in addition to those phenomena, the data was also analyzed from the overall population scenario and the most vulnerable group within the target group (Women+Dalits+Haliya+PwDs)- who are exposed to multiple forms of discrimination. This approach helped to gain the quantitative grasp of data and co-relation phenomena. After that, the comparative analysis was conducted with the previous year basically the on the basis of regional distribution. (Note: The respondents are different in different years of study). To get the picture of the progress within a year time span, around 30% of respondents were re-surveyed through the phone conversation.

The analysis proceeded with quantifying the data through frequency and percentages. Graphs and tables were developed accordingly. This analysis provided concrete understanding of the hotspots regarding key challenges. Moreover, it helped to identify the target group by

comparing various groups and finding wider patterns, where possible. Qualitative data was used to gain more nuance and indebt knowledge to enrich the quantitative understanding of discrimination identified in Kobo data.

Finally, on the basis of the key finding following data analysis, the interpretation and conclusions were made. In order to come up with specific recommendations, legal framework and the policy recommendations adopted during the Universal Periodic Review (UPR) indicating Nepal were also taken into consideration. This gave rise to a means which aided in contextualizing these localized findings to national policies and constitutional framework. As a result, it also helped to identify progress; if it has been made; or whether the analysis implies the lack of capacities of duty-bearers to respect the human rights of freed Haliyas.

## 2.4. Ethical Considerations

As this study primarily focus on the issues of the vulnerable and marginalized groups, this study has undertaken ethical considerations in every step, such as informed consent, respect for privacy, DO NO HARM and respect for anonymity and confidentiality.

Prior to the data collection, approval from the project municipalities were taken. The government officials were oriented about the modality of the ESC rights monitoring and the use of ESCR mobile app for the data collection. In a similar way, a verbal consent was taken before every interview which was recorded in the ESCR app. Moreover, the privacy of all respondents was strictly protected during the overall study.

In order to ensure these ethical guidelines are understood among the recipients, the study focused on avoiding the language and cultural barriers. Hence, the community monitors were selected from the project districts with the knowledge of local language and culture.

The collected data in the ESCR mobile app answers was protected with best available cyber-security protocols. This means these data cannot be accessed without the permission of the monitors and admins. For the entire study, the monitors were properly trained for ensuring aforementioned ethical considerations.

The entire study team including the Monitors was instructed to abide by the COVID-19 safety parameters and guidelines of the federal, provincial and local government.

## 2.5. Data Management and Protection

The data collection tool – ESCR app is linked with the Kobo tool which provides safe space for the collected data under the admin and monitors. Entire data is managed under the system of the organization. Individual data cannot be accessed without permission. In need, the individual data are not provided instead the results obtained from the data are shared.

## CHAPTER 3

# Nepal's profile on respecting, protecting and fulfilling ESC Rights

Economic, Social and Cultural rights are basically the freedoms, privileges and entitlements that individuals and societies require to live a life of dignity. They are one of the two pillars of the United Nation human rights framework. It implies that a state has legal obligations to respect, protect and fulfill their ESC rights.

<b>Respect</b>	<b>Protect</b>	<b>Fulfill</b>
The State should refrain from interfering with the enjoyment of the right in any way.	The responsibility is to ensure that others do not interfere in the exercise of one's rights through effective regulation and treatment. Under this, the State should stop any third party trying to violate the human rights of the citizens.	The State itself has an obligation to promote rights, facilitate access to rights and provide necessary services if individuals and groups are unable to exercise their rights by their own means for reasons not under their control. To guarantee human rights, the state must take all positive initiatives, including the formulation and implementation of laws and policies.

This study contributes in providing the evidence of the existing situation of freed Haliyas on their human rights being violated or not respected, protected or fulfilled.

### 3.1. Constitutional and Legal Provisions on four thematic areas of ESC rights

Government of Nepal (GoN) has formulated many policies, act, and plans to ensure that the human rights are met ending any forms of discrimination and violence. The Labor Act, 2017 mentions about creating safe environment for work by making proper safety and health arrangements. Similarly, the Public Health Service Act, 2018 guarantees

the right to obtain free basic health services. Likewise, to prioritize the role of education, the Constitution of Nepal mentions about right to free education including the facility of scholarship, day breakfast for the economically destitute children.

Regarding, the rights against untouchability and discrimination, Article 24 of the Constitution of Nepal states that no person shall be subjected to any form of untouchability or discrimination in any private and public places on grounds of his or her origin, caste, tribe, community, profession, occupation or physical condition. Following the constitution, The Caste based discrimination and untouchability (offence and punishment) Act 2011 protecting the rights of each person to live with equality, freedom and human dignity particularly focusing on caste-based discrimination and untouchability. Also, no discrimination shall be allowed at a workplace with or without making untouchability on the ground of caste.

As per the Article 42, under right to social justice, the Constitution ensures that the indigent citizens and citizens of communities on the verge of extinction shall have the right to get special opportunities and benefits in education, health, housing, employment, food and social security for their protection upliftment, empowerment and development.

Similarly, the citizens with disabilities shall have the right to live with dignity and honor, with the identity of their diversity and have equal access to public services and facilities.

Also, every farmer shall have the right to have access to lands for agro activities, select and protect local seeds and agro species which have been used and pursued traditionally, in accordance with law.

Under Article 51, sub policies relating to social justice and inclusion, it is stated that the state shall pursue policies to identify the freed bonded labors, kamalari, haruwa, charuwa, tillers, landless, squatters and rehabilitate them by providing housing, housing plot for residence and cultivable land or employment for their livelihood.<sup>4</sup>

Under Article 51, sub policy relating to labor and employment, it is stated that the state shall pursue policies to guarantee social security, while ensuring the basic rights of all labors in consonance with the concept of decent labor. The state shall also pursue policies to abolish all forms of labor exploitation including child labor.

### 3.2. Universal Periodic Review and ESC Rights in Nepal

UPR is a human rights instrument guided by the Human Rights Council of the UN in which countries peer-review each other based on their capabilities to protect human rights. UPR is a collaborative mechanism based on the interactive dialogue between the countries under review, council members and observers. It is intended to complement, not repeat, the work of work of human rights treaty bodies. UPR operates on a four-year cyclical basis for a review and documentation and follow up of the findings and recommendations. And, the evaluation of the progress builds on the earlier recommendations.

UPR process aims to hasten up and encourage the implementation of human rights in the 192 countries constituting the UN. Preparing information for review is an early stage of this

<sup>4</sup> Article 51 of the Constitution of Nepal (page 41)

process. The nation's review is based on information contained in three documents:

- ▶ Information prepared by the nation under review
- ▶ Collection of United Nations information prepared by the Office of the High Commissioner for Human Rights (OHCHR), and
- ▶ Summary of the stakeholders' information

Civil Society is one of the key stakes that provides the evidences and clear insights of the human rights situation during the UPR cycles.

The Government of Nepal is committed to UPR as a tool to advance human rights at the local level too for it considers UPR as a constructive mechanism for the protection and promotion of the human rights worldwide.

Nepal's first and second UPR reviews took place in 2011 and 2015 respectively. Similarly, the third review cycle took place on 21<sup>st</sup> January 2021, where the UPR working group made 233 recommendations for Nepal. While approving the report in July 2021, Nepal accepted 196 recommendations and noted 37 recommendations. Specifically, to this report, 40 of those recommendations are under the Economic, Social, and Cultural rights, regarding issues such as modern slavery, poverty alleviation and education among others.

The findings of the study are reflected with the diverse UPR recommendations provided on ESC rights.

## CHAPTER 4

# ESC rights situation of freed haliyas - Findings and Analysis

### 4.1. Haliyas – a target population

Haliya, a term derived from the Haliya system, is considered a form of modern slavery in Nepal. It is associated with the debt bondage common to the caste-based communities. A person, who works as a land tiller being in Haliya system is generalized as a Haliya. After the abolishment of Haliya system in Spetember 2008, Haliyas are now termed as the freed Haliyas. Freed Haliyas are prevalent in Sudurpaschim and Karnali provinces of Nepal.

It is typical that only a fraction of freed Haliyas had direct association with debts. Instead, they were enslaved because of the debts accumulated by their ancestors over generations through two kinds of working relationship:

- ▶ Based on ancestry – Haliya works for the landlords to pay off the loans taken by their ancestors or the earlier generations, and
- ▶ Connected with land and livelihood – Haliya who have taken a small piece of land from their landlords to cultivate in exchange of labor

Extreme poverty and a debt rooted in Western region have relegated many members living the poverty line to a Haliya status. 97% of Haliyas are from the lower castes, known as Dalits and around 3% are non-Dalits. Thus, freed Haliyas face double discrimination, as a freed Haliya and as a Dalits. Further, the women and PwDs within Haliyas are more vulnerable amongst the freed Haliyas and are subjected in multiple forms of discrimination by so called upper caste members. The landlords on whom the freed Haliyas are dependent are the one from the upper caste Brahmin, Chhetri and other higher status ethnic groups.

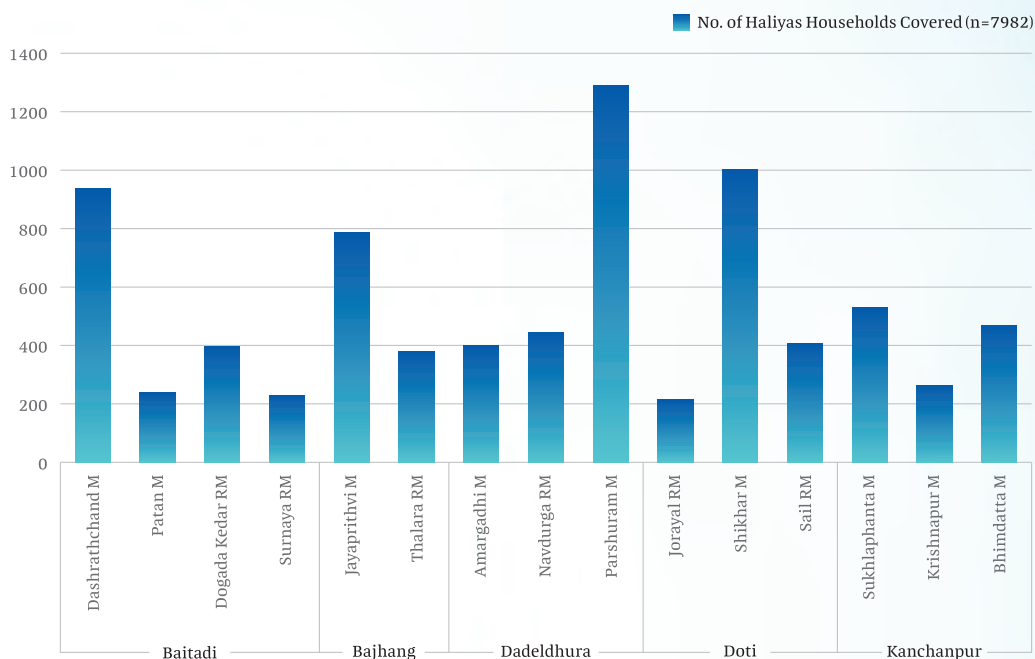
The majority of freed Haliyas resides in isolated communities being more prevalent at the Western part of Nepal, specifically in the twelve districts of Sudurpaschim and Karnali Province. Those districts have 19,059 freed Haliyas recorded in the Government list. However, the freed Haliya leaders argue that there are still more than 15,000 freed Haliyas yet to be identified and registered.<sup>5</sup>

This study accentuates on five districts of Sudurpaschim Province covering 15 Municipalities with both registered and unregistered freed Haliyas. Figure 4 demonstrates the number of freed Haliyas households covered during the study period of January 2022 to November 2022.

<sup>5</sup> Data Records of RMHSFN, Dhangadhi, Information obtained during the consultation meeting



Among the total freed Haliyas households' i.e. 7,982, study covered highest number of households from Parshuram Municipality of Dadeldhura district and the lowest numbers from Jorayal Rural Municipality. (Figure 4 and For the detailed data, see Annex 1: Breakdown data of number of households covered by ADHICAR project of year 2021 and 2022).



**Figure 4: Distribution of respondents by Municipalities**

Among the total respondents, 38% were the females and 62% were male (Figure 5). The reason behind the lower share of female respondents is due a simple fact: the majority of freed Haliyas who worked as Hali are the men. This bias is taken into consideration while conducting the analysis that the human rights issues are studied as proportional shares within the genders. The respondents consist of different aged groups. The respondents aged below 15 were not considered as freed Haliyas instead children from the freed Haliya households.

Gender Age Disaggregation of respondents

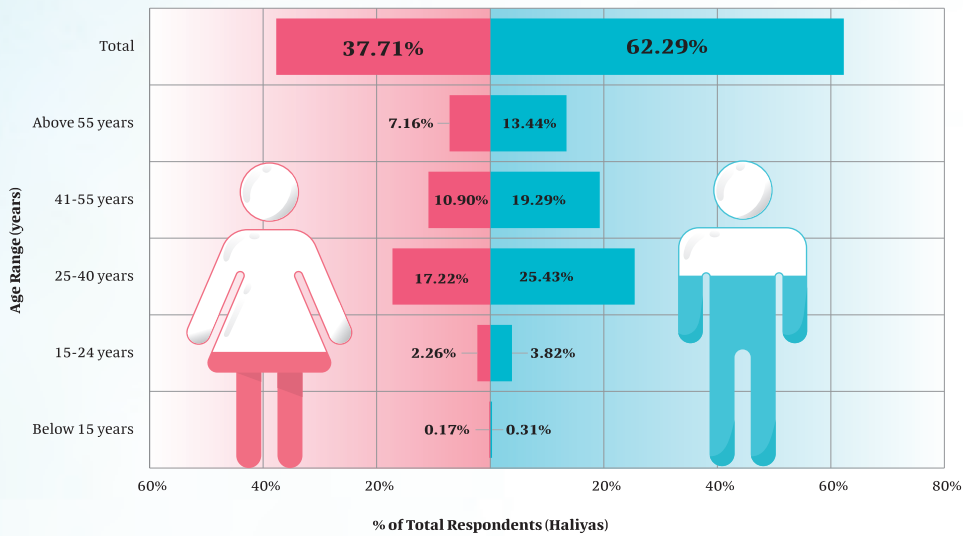


Figure 5: Disaggregated data representation by gender and age

The data demonstrates that 71% of the freed Haliyas are involved in Farming with a share of both agricultural and animal farming, majority of who are relied on agriculture with 1% in animal farming.

The 29% who are categorized into Off-farm with the highest number in daily wage worker- a labor worker (1844 respondents) and only 444 respondents are categorized into others. The others category includes engagement in skill based occupation such as handicraft works, mason, carpentry, small scale business, foreign employment (especially the neighboring country India), and traditional craft.

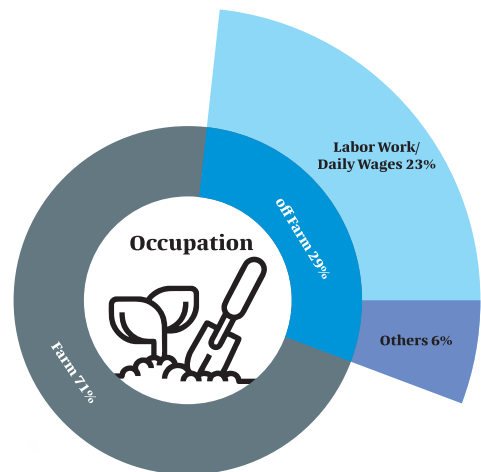


Figure 6: Occupational status of freed Haliyas

Apart from 7982 households of the rights holders, 211 duty bearers were also analyzed in the study.

Among the 211 duty bearers surveyed, 61 were from freed Haliyas and remaining were the non-Haliyas. The duty bearers from freed Haliya communities are mostly in the lower positions which are less influential in the government and majority of them were from quota system of Dalit category. However, the respondents from non-Haliyas seemed to have high posts coverage with Mayors and Doctors among others. The Haliyas involvement in education institutions (public schools) and Municipals (ward offices, Municipalities, Rural Municipalities) are similar i.e. around 32%. Comparatively, their involvement in the health sector (public health post, government hospitals) are seen lower (17%). (Table no.1)

Table no. 1: Occupational status of Haliyas and non-Haliyas among the duty bearers

Institutions	Haliyas	Non-Haliyas	Posts hold by Haliyas	Post hold by non-Haliyas	Total
Municipals	39 (32.5%)	81 (67.5%)	12 Ward chairperson/ member 4 office helper 4 Dalit Women Member 8 Municipal Member 5 Janapratidhi 4 Politician 2 Social Service	Mayor Municipal Chief/ General Chief Ward Chairpersons/ member Office Helper Janapratidhi Councillor Information Officer Politician & Social Service	120
Health institutions	7 (17%)	35 (83%)	Health Assistant Health Officer ANM - Auxiliary Nurse Midwife	Hospital Management Committee Doctor- Physician/ Nurses Health Officer / Assistant ANM/ AHW	42
Education Institutions	15 (32%)	32 (68%)	Teacher Office Helper	Principals / Teachers Office Helper	47
Land Reforms	0	2			2
Total	61 (29%)	150 (71%)			211

## 4.2. Haliyas' access to the government services and entitlements

The study closely analyzed the rights and entitlements ensured by the Government of Nepal through different law, policy and the commitments. Some of the key provisions and their recommendations accepted by Nepal Government during the third Universal Periodic Review (UPR) cycle in January 21, 2021, are as below.

### 4.2.1. Right to Health (SDG 3: Good Health and Well Being)

#### ► Legal Framework

- Article 35 of the Constitution of Nepal: Every person shall have the rights to free basic health services from the State and no one shall be deprived of emergency health services.<sup>6</sup>
- Chapter 2 of the Health Service Act, 2018: Every citizen shall have the right to obtain quality health services easily and conveniently and no one shall be deprived of health services.<sup>7</sup>

#### ► UPR Recommendations

Out of 47 recommendations related to ESC rights, 11 recommendations fall under the right to health. Additional 6 recommendations are related to the COVID-19. The study contributes on two major recommendations:

- Recommendation No. 159.38, 159.143, 159.147: Continue efforts to facilitate access to health services and to create favorable conditions for ensuring access to public health for all.

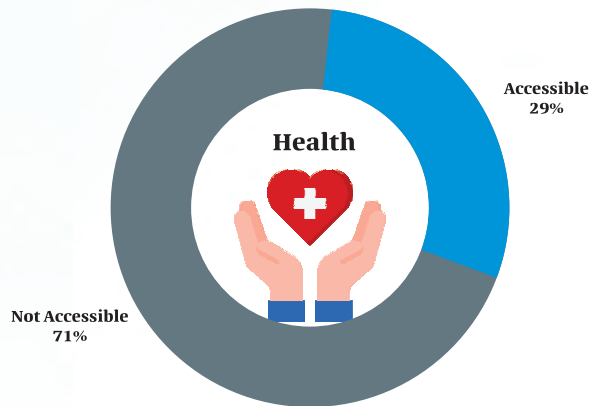
<sup>6</sup> Article 35 of the Constitution of Nepal

<sup>7</sup> Chapter 2 of the Public Health Service Act 2018

- Recommendation No. 159.144: Continue to expand efforts towards universal health coverage while minimizing disruption in access to basic health care services during the pandemic taking into consideration the ongoing COVID-19 pandemic.

▶ **Major Findings**

- The study analyzed one of the key features of the Right to Health Monitoring Index – access to essential medicines including health centers on health service. The data shows that 71% of the surveyed population does not have access to the free health care services (Figure 7). One of the major reasons behind this gap in the inaccessibility of health facilities is a result of poor road transport infrastructures and unequal distribution of the health care facilities.



**Figure 7: Accessibility of freed Haliyas on Health service**

- The public health centers at any districts should provide free health care facilities including 35 free listed medicines and counseling service among other issues. However, the study found that none of the health centers are well equipped with the listed free medicines.

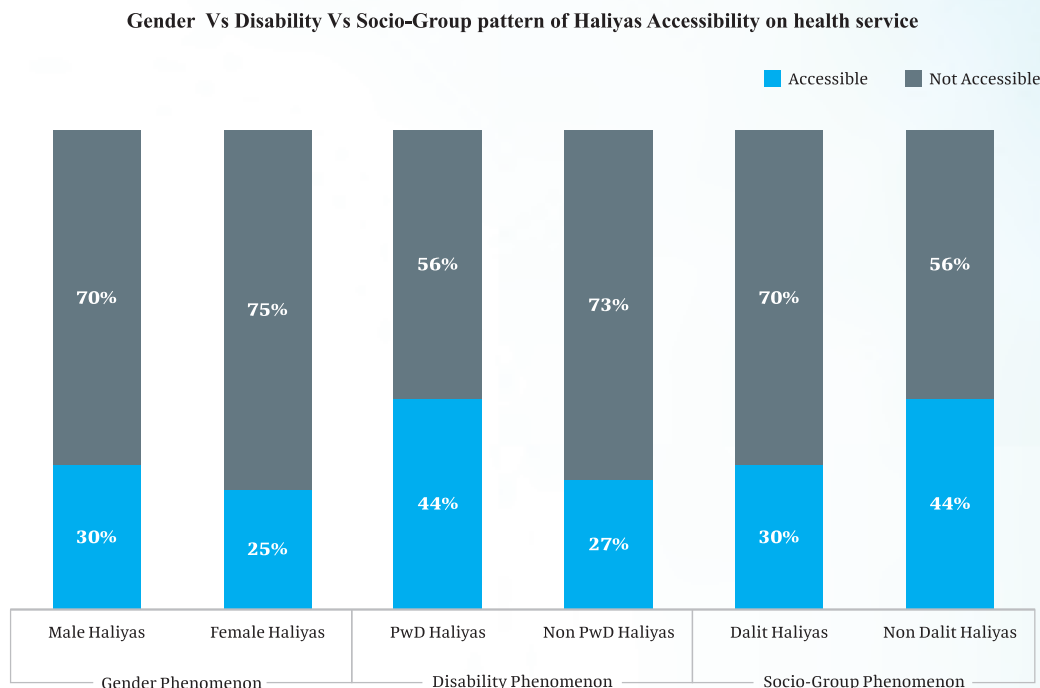
**Case 1: Inaccessibility of the essential medicines at health centres**

Miss A of aged 34, from a Dalit Haliya family who is also a singled woman (name anonymous) from Kanchanpur said that they don't know which medicines are provided free by the government. None of the citizen are aware on their medicine entitlement. Even when they go to take the medicine for a simple cough, the health workers just write the name of the medicine and ask them to buy from the pharmacy saying that the medicines are currently not available. (Information obtained from Community Meeting, Kanchanpur).

Poverty within the communities is one of the key factors hindering access to health care among freed Haliyas. Though they have access to the free health services provided by the government, the economically poor Freed Haliyas did not had financial resources to afford to purchase health services on chronic diseases such as kidney failure, asthma, diabetes and non-communicable diseases. More than 60% of the freed Haliyas feel that the government health facilities are under staffed and have less number of qualified and experienced health professionals. Despite having access to government facilities, this is also another reason for less utilization of the service by the Freed Haliya population. The health centers normally have two junior level staffs in the rural area with no presence of a medical doctor.

Altogether 93% of the freed Haliyas expressed lack of emergency health care support during COVID-19. Nearly 18% of respondents mentioned that they feel of being discriminated at health centers due to their Haliya status.

Access to health was also analyzed based on the gender, disability and social strata (Figure 8). The data shows that female Haliyas and Dalit Haliyas are found with lesser accessibility to the health services.



**Figure 8: Health Accessibility pattern as per different categories of target groups**

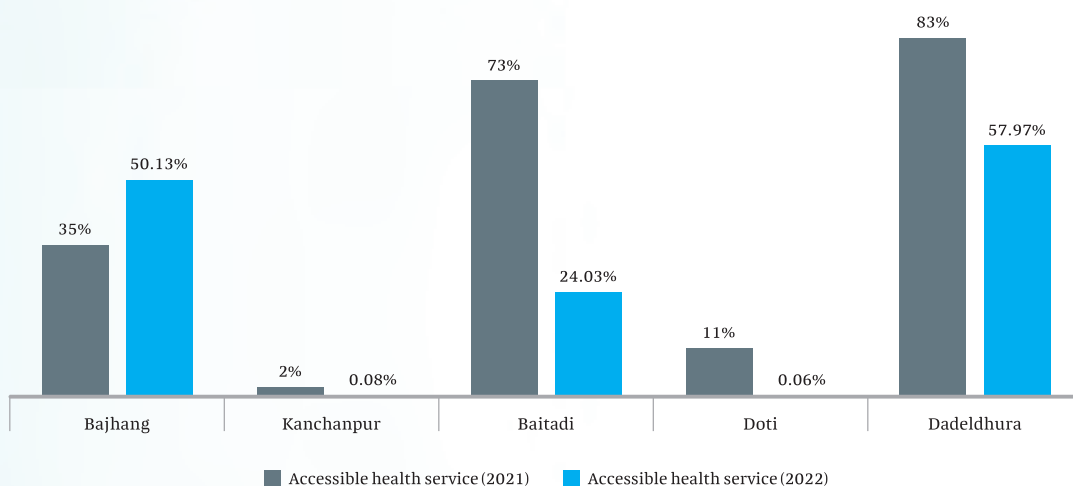
Unlike above mentioned marginalized groups among the target group, 44% of PwDs from Haliyas feel that they have an easy access to the health service. This is a good indication about the results of the Governments and DPOs efforts for providing health service for PwD. (Case 2)

### Case 2: Easy access to health care service with DPOs effort and coordination of local government

A 13-year-old Bharat Mijar is a physically disabled child with weak arms and legs. He belongs to DalitHaliya family and had to stay at home because he cannot move properly. His family had to assist him with all of his everyday tasks and even take him to school. The low economic condition of the family made him difficulty to access the good health service. Fortunately, his treatment was done with the support of the Disable Services Association, Doti, and United Mission to Nepal through the Rehabilitation Coordination Program, conducted in coordination with the local government. Now, his hands and feet have been significantly improved with the aid of springs and calipers. He now can do his work without support from others.

Geographically, the study found that there is a noticeable differentiation in accessing health care facilities. The general understanding is the people at Terai region like Kanchanpur should have an easy access to the services compared to Mountainous region with limited transportation facilities like Bajhang district. However, in Kanchanpur which is relatively accessible district than other three districts only 0.08% of 1,259 freed Haliyas surveyed are in access to health services. Freed Haliyas generally resides at the very isolated area and rural part of the district, so are far from the information access resulting less access health services provisioned by the government. Geographical remoteness therefore might be one of the reasons for limited access of the Freed Haliya in the government health services. In similar vein, the Task Force developed by the Ministry of Land Management, Cooperatives and Poverty Alleviation (MoLCPA), also agrees on the point that the Haliyas are residing on the isolated area and are behind an easy access to the health services.

**Percentage of Haliyas who consider health services are accessible**



**Figure 9: Region wise and year wise pattern of Access to Health care facilities among freed Haliyas**

The same figure (Figure 9) also shows large year-to-year variation in the access to the health care facilities. The freed Haliyas of four project districts have less access to the health services in compared to the previous year. This finding might be explained that the accessibility among haliya within same districts is differentiated. The reason for this decrease might be contributed by the factors related to landscape topography and the practical isolation of the localized haliya communities. As the study this year 2022 covered the most rural part and isolated areas of the four districts in comparison to the 2021. (Note - The respondents and locations of 2021 and 2022 are different), the decreased access might have been contributed by this factor.

On duty bearers, among the 42 health personnel surveyed, 48% of them shared that freed Haliya communities reside in isolated areas making them to travel at least one hour and even more to reach the nearby health centers. And 70% the duty bearers mentioned that the health infrastructures are disability friendly. This is a good indication of the government effort to improve the PwDs situation on service delivery. 83% of the duty bearers shared that there is no any special provision for the freed Haliyas on the health services which needs to be taken into special attention.

The community meetings organized during the fact finding mission show that Municipals and health centers are not equipped with adequate medical supplies and staff. This has been the major barrier to get an effective service delivery leading to major health issues.

The major health issues seen among the men within freed Haliyas are the respiratory diseases and pneumonia. Whilst the major problems seen among women within freed Haliyas is ovary prolapse. However, the health center of Amargadhi Municipality shares that though they don't have disaggregated data as specifically how many Haliyas come to their center but they make sure that those who come generally comes for the treatment of fever, cold and cough, headaches, stomachache and first aid.

#### 4.2.2. Right to Education (SDG 4: Quality Education)

##### ▶ **Legal framework**

- Article 31 of the Constitution of Nepal: all citizens shall have the right to access to get compulsory and free education up to basic level and free education up to secondary level from the state, and that the economically stricken citizens shall have the right to higher education by the state as per the law.<sup>8</sup>
- Chapter 2 of the Free and Compulsory Education Act 2018: The government of Nepal, Provincial and Local Government are to provide education up to basic & secondary level to every citizen with the necessary arrangement.
- Chapter 3, sub-section 6: state shall provide basic level education to the children aged 4-13 years with one-year early childhood development.
- Subsection 23: Economically destitute children may provide monthly scholarships by the local government to provide education up to a basic level.<sup>9</sup>

##### ▶ **UPR recommendations**

Out of 47 recommendations related to ESC rights, 9 recommendations fall under the right to education. The study contributes on four major recommendations:

- Recommendation No. 159.121: Pursue the good management of policies related to the basic needs of citizen such as rights to education;
- Recommendation No. 159.153: Continue its efforts to ensure an inclusive education system no one leaves behind, including children with disabilities;
- Recommendation No. 159.147, 159.151, and 159.152: Continue its efforts to create favorable conditions for ensuring access to free and quality education for all without discrimination
- Recommendation No. 159.181: Step up efforts to provide equal access to online education for girls, especially during the COVID-19 lockdown.

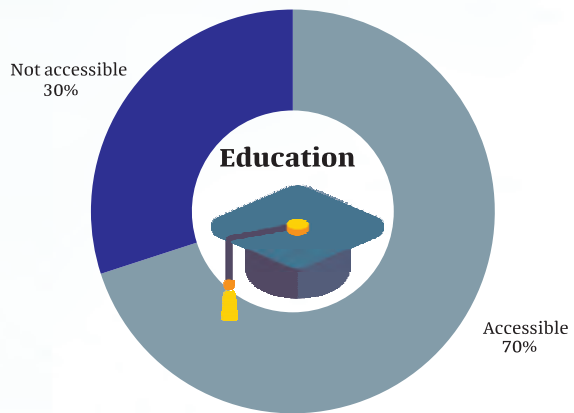
##### ▶ **Major Findings**

- The basic features related to right to education are i) compulsory and free education, ii) access to secondary and higher education, iii) curriculum and education materials and iv) educational opportunities and freedoms. Out of these, the study was focused on the accessibility of Education and quality education services (education materials and opportunities) at the primary and secondary level schools.

<sup>8</sup> Article 31 of the Constitution of Nepal.

<sup>9</sup> Chapter 3 of the Free and Compulsory Education Act 2018

- The freed Haliyas feel that there is an increased and better access to education for their children in than to health services. Nearly 70% of the freed Haliyas responded that the schools are accessible to their children. The accessibility is in the terms of economy, information and education facilities provided without discrimination. However, few cases show that in rural areas, school going children still face caste based discrimination from peers and teachers. This might be one of the factors that still prevent freed Haliya children in fully accessing the education services offered in the community schools.



**Figure 10: Accessibility of freed Haliyas on Education service**

### Case 3: Inaccessibility of effective education service

Mr. B of aged 11, from a Dalit Haliya family (name anonymous) from Bajhang feel that he being from the Dalit community, the teachers don't provide the marks that he deserves and is not upgraded and let him to stay below Top 10. He frequently shared the fact with his parents but his parents convince him to read more to get upgraded. Non-Dalit teachers used to focus only on the non-Dalit students. This created a sense of indirect discrimination to the students from the Dalit communities. He was in access to education but was not in an access to an effective delivery of the education service from the teachers. Then he forcedly asks his parents to change the school and now he is one of the top students in the class in other school where he feels an access to effective education service without any discrimination. (Case shared by Help Desk Focal Person, Bajhang)

The illustration of access to education service in terms of gender, disability and socio group pattern (Figure 11) shows that 85% of the PwDs within freed Haliyas have access to the schools which is comparatively higher. Unlike PwDs, other vulnerable group within the target group- the female Haliyas and Dalit Haliyas has lesser access to education service comparatively. The finding illustrates the impacts of the governments' provision and effort for the PwDs. However, Children with disabilities face additional barriers to access education, including denial of the school admission because of limited accessibility options within the school and to reach the school.

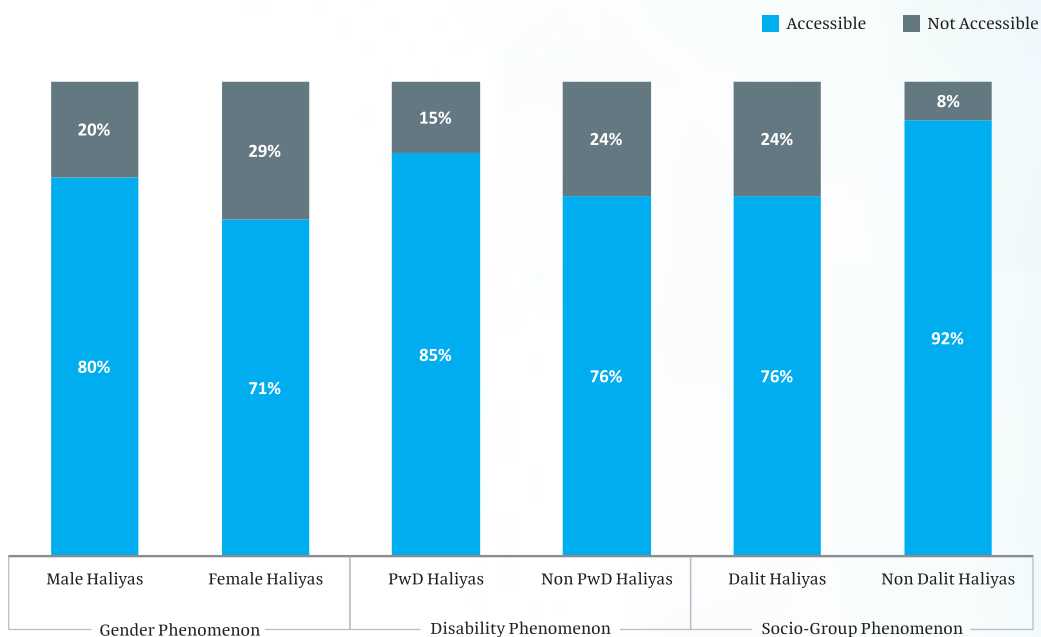
From the gender perspective, the data shows that the girls' children within freed Haliyas have less access than boys' children. The reason behind this is somehow considered the females engagement in fulfilling household chores to support the family. The similar challenge was found among children of Dalit (76%) and Non-Dalit freed Haliyas (92%) which might cause due to economic vulnerability. To fulfill the basic needs of the family, the children had to drop out the schools in early age (especially at the age of 13, 14 and 15) at 5 – 6<sup>th</sup> Grade. Barriers for attending school for school aged children include pressure to find the employment in case of



boys and migrate especially to India and gulf countries; and support in household chores and daily wages in case of girls.

Though child labor is prohibited by law, children normally being dropped out from school are vulnerable to it. As child labor is prohibited by law in Nepal, they find ways to migrate to India and trapped in to exploitative child labor situations. There is also likelihood of them being involved in anti-social activities.

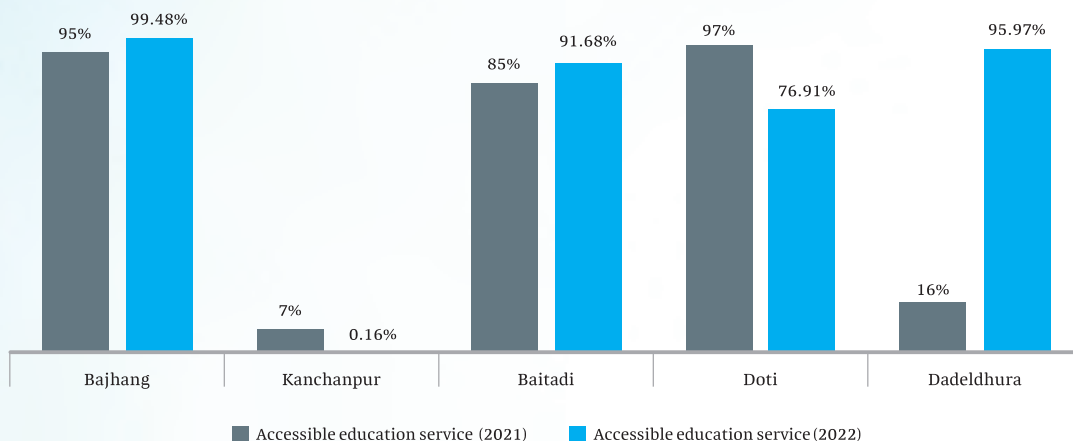
**Gender Vs Disability Vs Socio-Group pattern of Haliyas Accessibility on education service**



**Figure 11: Gender Vs. Disability Vs. Socio Group pattern of Haliyas children on education service**

Geographically, the data (Figure 12) shows that, among five project districts, the Haliyas from Kanchanpur has less access to education. There is vast differentiation seen in access to education amongst the Kanchanpur and Dadeldhura district in between the years 2021 and 2022 (Note - The respondents of 2021 and 2022 are different). This might be due to the difference in the geographical and demographic characteristics of the sample population in these two years. COVID-19 still has an impact on access to education even though the government announced to continue the education through alternative methods. For instance, the students with poor economic background like freed Haliyas children along with the children with disability were far reach to online education offered by the schools. They did not have access to the android mobiles phones and financial capacity to afford to purchase the data card.

## Percentage of Haliyas who consider education services accessible as per regional distribution



**Figure 12: Access to education service among the freed Haliyas**

The duty bearers revealed approximately 10% of Haliya children gets drop out every year and even more in Doti district. They shared the major reason behind this is the low economic situation. To ensure the dropout rates are reduced with even 1 child a year, local governments have initiated the household consultation program to convince the children families supporting the free day lunch and services under the Dalit quota. Unfortunately, none of the officers from the Municipals have any idea on how many freed Haliyas children get dropped out every year. The government officers admits that there is no specific provision for free Haliya children but have been providing the free education service as suggested by constitution, up to 12<sup>th</sup> Grade.

The government officials from both Municipals and Education institutions shares that the reasons for not having special provisions for freed Haliya are:

- ▶ Financial limitation within the Municipals and education institutions
- ▶ Majority of the freed Haliyas are Dalits so they are being provided the service under Dalit quota system
- ▶ The freed Haliyas issues are less known in comparison to those of Dalits.

The community meetings organized during fact finding mission revealed that though the schools provide the free education services and have an easy access, the schools at Kanchanpur demands additional electricity costs from their students. In other districts, the students have to pay other expenses such as exam fees, pay for uniform, stationaries and even to teachers for extra classes. These factors negatively contribute to decreased access to education for freed Haliya children who lives below poverty line. The duty-bearers from the education institutions say that when teachers are not proficient they need to hire extra teacher or arrange tuition classes to improve the quality of the education for which they need to charge from the students. The fact finding report revealed that despite these odds, access to education is generally getting better nowadays mainly due to availability of education materials, provision of scholarships and improved road condition.

The task force report highlights that the dropout rate of Haliya children is high in secondary level. The children from Haliya settlements that are in scattered form are in isolated areas that hinders them for an easy access to the education. Haliyas children despite of being educated are seen with no employment opportunity which has been one of the major reasons; the Haliya families are not interested for letting their children to continue going to school.

### 4.2.3. Right to Decent Work (SDG 8: Decent Work and Economic Growth)

#### ▶ Legal framework

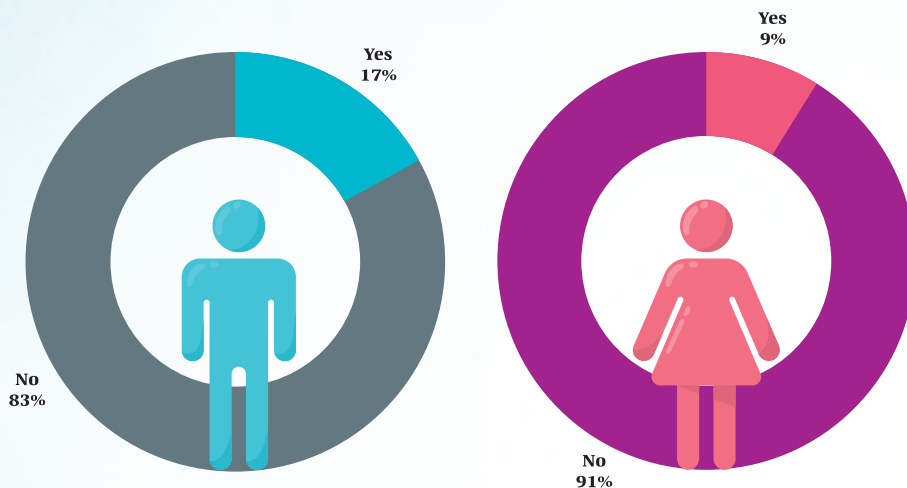
- Article 34 of the Constitution of Nepal 2072: Every laborer shall have the right to appropriate remuneration, facilities, and contributory social security. Every laborer shall have the right to form and join trade unions and to engage in collective bargaining.
- Labor Act of Nepal, (2017) and Civil Offence Act (2017): It has mandated labor office to take judicial actions against the violation of labor rights as provisioned by the law. An employee shall have a defined working hours of 8 hours a day.
- Child Labor Prohibition and Regulation Act, (2006): Employment of children in hazardous condition and under 14 years is criminal offence.

#### ▶ UPR recommendations

- Two recommendations are accepted by the Government of Nepal on the right to employment, and the project's survey contributes on both recommendations as listed below:
- Recommendation No. 159.105: Continue to take measures to further strengthen implementation of the Right to Employment Act and the contributory social security system and, in particular implement target interventions for vulnerable groups.
- Recommendation No. 159.121: Pursue the good management of policies related to basic needs of citizens such as rights to work.

#### ▶ Major Findings

- Haliya system is a kind of bonded labor from generation to generation, to plough the landlord's farm and carry out all the agricultural works of the landlord to pay interest of loan or rent of the rented land. Haliyas (Halo Jotne: male member of the family) is one who plough the land. Despite gaining freedom from the Haliya system, some families are still continuing as "Haliya" because of their economic compulsions. It is not that they receive fair wages of their work but they wish to be economically and food secure by having labor contract with the landlords as they are not sure of maintaining their livelihoods in other sources of income.
- The data reveals that 17% among men and 9% among women, willingly or unwillingly had to choose to be Haliya in this 21<sup>st</sup> century (Figure 8). The major reasons behind this are the less income opportunities and their situation of living below the poverty line. (Case 4)



**Figure 13: Gender Breakdown of freed Haliyas who are still working as Hali**

#### **Case 4: Freed Haliyas unwillingly has to choose to be haliya even after abolishment of system**

Mr. L. Kami, a resident of Kasatole is 38 years living with his family of 8 members. The families' major occupation is daily wages. The families' income is NPR 12,000 per month which is not sufficient for a survival of 8 members. So, few years back his family took a loan of NPR 40,000 from the landlord. Till date, even after the Government has abolished the Haliya system a decade ago in 2008, Mr. Kami has to be Hali unwillingly due to that debt. This is because of the poverty within. In addition to this, his family has to suffer a lot during the rainy season. Their house is on the river bank and during rainy season, they are forced to take a shelter on others home. So, the family is seeking the support to manage their house at safe place and to make him free from Haliya system which makes them to work more than 48 hours a week.

Labor Act, 2074 (2017) stipulates a 48-hours work per week, with one day off per week and one-half hour of rest per five hours worked. The data shows that 47% of both women and men work 8 hours a day. This is the case for a labor work that had to depend on the daily wages. But, this is minimally sufficient to meet subsistence needs: the data demonstrates that 48% among men and 46% among women are working more than 8 hours a day for their survival. The respondents further shared that they are happy for being freed Haliya but after being freed, they rarely get the income opportunities. Neither the Government prioritizes their issues nor can their landlord take them back at the work.

The implementation and enforcement of occupational health and safety standards were minimal, and the Ministry of Labor, Employment, and Social Security considered it the most neglected area of labor law enforcement. 1% among men and 2% women had reported injuries at the workplace and shared that they were not supported financially during such time and even they had to lose their earnings, which made their families suffer to get even a meal a day. However, accurate data on workplace fatalities and accidents are not available in the

government records and also the areas where the freed Haliyas work. Among Haliyas with disabilities 5 % of them had gone through the accidents and injuries, which had taken them into the situation of zero earnings -for survival they started begging at the roads. This situation gets even worse when everyone denies providing the support and need to get back to work as Haliya to take the loans for survival.

Duty bearers shared that they don't have any provisions or special quotas for the freed Haliyas for the job replacement. However, they noted with positive tone that there is no wage variation among the freed Haliyas or non- Haliyas and among men and women.

The duty bearers' response was challenged during the fact finding mission. In a community meeting it was brought into an attention that there is a differentiation in wages between men and women for the same level of work. For instance, in a daily wage, if a man takes the Halo (from which they plough the land) with them, they are provided the amount ranging from NPR 1200-2000 per day and a day meal. Otherwise, a man gets paid around NPR 800 per day or cereals equivalent to 800 and a day meal. Unlike man, a woman is paid 400-600 per day. However, fewer cases of differentiation among the Dalit Haliyas and non-Dalit Haliyas are seen. The evidences show that landlords are found to pay less for the Dalit Haliyas.

#### **Case 5: Freed Haliyas being paid less by the landlords**

Nari Damai, a 52-year-old man with a disability card of D category has received the Haliya rehabilitation package and relies on the daily wages for a living. He and his son used to work for the landowner, from which it is calculated to receive Rs 150,000. However, being a Haliya Dalit, he is being paid less. This issue has been discussed in the Judicial Committee of Municipality but concerned authorities did not care and take any positive decision. The owner did not visit the village after this incident and living freely saying that even the case is filed, Nari Damai could not be process legally through the district administration because of the financial crisis.

With limited wages for working whole day in Nepal, large no. of freed Haliyas move to India for the job opportunities both for agriculture and non-agriculture sectors as they get paid more in India than in Nepal. This is the utmost for their survival. However, there is no. of cases that are supported under ADHICAR project for the livelihood options and well sustaining their lives happily. (Case no. 6)

### **Case 6: Women within Haliya sustaining her family with non-agricultural livelihood options**

Lalita Devi Nepali, resident of ward-3 Shikhar Rural Municipality of Doti district belongs to the freed Haliya community. She is living with her family members of 7 including her husband, 2 sons, 2 daughters and a mother-in-law. Her family was bounded in a Haliya system. Soon after the demise of her father in law, her husband paid the debt taken by his father/forefather to the owner and they freed themselves from the Haliya system. Their family's financial situation is very fragile. Because of which it became very difficult for them to cover their daily expenses and to pay for their children's education. Her husband used to work at India. During the time of COVID, her husband lost his job and had to return back to his hometown. After that, they had to go through bundles of struggles to feed a family of 7. She had a piece of land (one ropani) which divided with her three brothers. The area is not sufficient to have a one meal per day for 7 members. Fortunately, in 2020, she got opportunity to attend the livelihood program from where she learnt to sew the clothes. After that she started a tailoring business and began to earn NPR 500 to 700 per day which supported not only to feed her family but also to send her children to school. Till date, she is sustaining her family with that non-agricultural livelihood option.

Fact finding report reveals that for the survival, the Haliya families, especially those with PwD, are living under the worst situation than the other groups. Various NGOs/INGOs have supported but in a short term with limited opportunity for their survival. PwDs within Haliyas are involved in the daily wages but they rarely get paid on time. In overall, there are scarce programs initiated by federal, provincial and local level to uplift the employment opportunities to the Haliya families in livelihood beyond agriculture (Case 7).

### **Case 7: Non-agricultural based livelihood options could no longer flourish**

Mr. G. Sarki, from Asaapur Village of Kanchanpur residing with a family of 13 members shares that "few years back, his family took a loan of NPR 150,000 from the community groups. With that money, he bought a buffalo. With much excitement, he went to market with the milk provided by the buffalo. Unfortunately, he could not sell the milk there as everyone knows his caste. Next day, he went to the other village to sell the milk with a hope that no one knows that he is from Dalit family. Fortunately, he could sell the milk. However, after some time, the people from that village also learned about his caste and the sales plummeted..As a solution, he tried to take the milk at the dairy products vendors but we rejected there as well. With this trauma, and with no income for survival, he turned back to be a daily wage worker which is not enough for his family to survive. Though, the freed Haliyas wish to choose non-agriculture based livelihood options, they are discriminated because of their caste".

#### 4.2.4. Right to Housing/ Rehabilitation Package (SDG 11: Sustainable Cities and Communities)

##### ▶ Legal framework

- Article 51 of the Constitution of Nepal: State shall pursue policies to identify the freed bonded labors, tillers, landless, squatters and rehabilitate them by providing housing, housing plot for residence and cultivable land or employment for their livelihood.
- Freed Haliya Rehabilitation Plan and Policy 2017/18: Provide rehabilitation funds for upliftment of the economic condition of Haliyas and funds for land, renovation, and settlement of houses where they are currently living.
- Freed Haliya Rehabilitation Format & Planning 2013: Ensure safe housing, improved economic conditions, and better access to health and education for Haliya. Moreover, under the strategy, there is a provision to provide an identity card for Haliya.
- Kamaiya Act, 2002: Prohibits any bonded labor system.

##### ▶ UPR recommendations

- Out of 47 recommendations related to ESC rights, only one recommendations fall under the right to housing and targeted for Haliyas. The study contributes on four major recommendations:
- Recommendation No. 159.121: Pursue the good management of policies related to basic needs of citizens such as the rights to adequate housing (relates to Haliya rehabilitation)

##### ▶ Major Findings

- The rehabilitation package is the entitlement designed by the government for the freed Haliyas for their survival. However, the freed Haliyas are facing challenges for receiving this package. Despite being freed and having the freed Haliyas ID card as their legal identity to get their entitlements, the study found that only 10 % of the respondents have received the rehabilitation package. 95% of the respondents shared that unlike other services from the government, they faced difficulties in accessing the rehabilitation package service. They feel that, the government has little interest on the issues of freed Haliya community. To make situation worse, data suggests that COVID-19 has slowed down the process even further.

- The freed Haliya ID card is directly related to the rehabilitation service that the freed Haliyas receives. Out of 10,549 (the rights holders surveyed in ADHICAR project), 1744 are with the freed Haliya ID cards. This shows that 83% of the rights holders are still

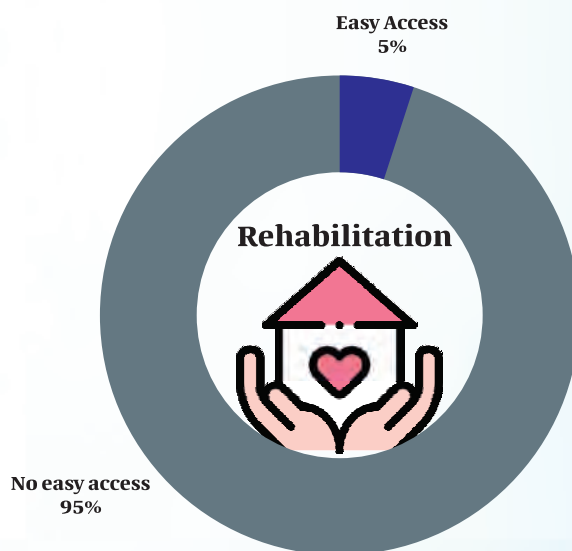
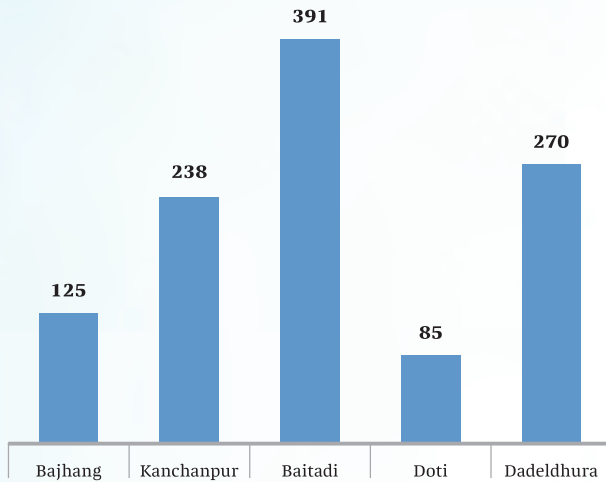


Figure 14: Haliyas Accessibility on rehabilitation package

not in reach to their identity cards. Despite the Government record (as per 2053) shows that around 85% of freed Haliyas have received their ID cards, the survey shows that 83% are still to receive ID cards. Comparatively, the freed Haliyas of Doti district is far behind in receiving the ID cards than other districts.

Haliyas with Haliya ID cards (2022) Among 7982 Haliyas



Categorization of freed Haliya ID cards

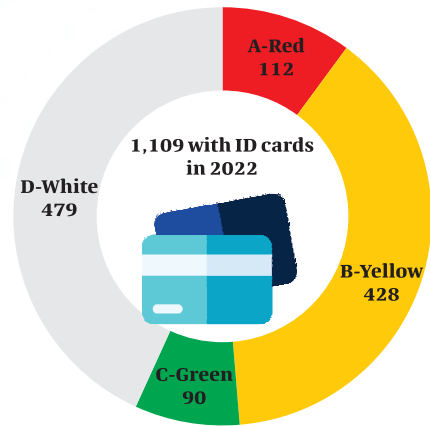


Figure no. 15: District wise Proportion of Haliyas with no. and type of Haliya ID cards

### Case 8: Lack of Legal identity-even a burden for a landlord

Jhakare Kami, 34, resides in the Shikhar Municipality-3 in the Doti district with four family members. He is dependent on daily wages. It will be difficult for him to fulfill a day's meal if he doesn't work for a day. It is difficult for him to perform any type of skilled labor due to his low educational standing, and lack of skills. Since he does not have his own land, he has been living and working in his owner's land as a laborer. The owner threatens him every day and asks to leave his land. He had been working in that land for many years, and the owner told him to give the land and house to him forever but after the abolition of the Haliya system, the landlord threatens Kami to leave that land. He doesn't have any power and linkage to advocate on behalf of him to get justice and receive this land. Even though he is working as a Haliya, still he hasn't received any Haliya ID card. His situation is not unique: there are many Haliya left behind in receiving a Haliya ID card from his area. He has requested the government to provide a Haliya ID card and rehabilitation package to him, so that his problem could be solved and he can work peacefully without any threats of becoming landless.

As a result of the collective lobby and advocacy initiatives of the ADHICAR project, positive changes on the distribution pattern of the ID cards have been noticed. The distribution pattern of ID cards shows that 48% of freed Haliyas have received the C-White card. It represents that the majority of the respondents has been supported with house maintenance on NPR 125,000.



Only 12% of Haliyas have been supported with the A type Red ID card for those who don't have land and house and are supposed to receive total cash amount of NPR 525,000 as the rehabilitation package (Land purchase with NPR 200,000 and house construction with NPR 325,000). The community meetings revealed that the Freed Haliyas with A type of card are fewer than the other types among the rehabilitated.

Table no. 2: Categorization of rehabilitation package provided for freed Haliyas by Government of Nepal

Category	Description	Type of Card	Rehabilitation package
A	No land and no house	Red Card	Total NPR 525,000 Land Purchase – NPR 200,000 House Construction – NPR 325, 000
B	Have house and no land	Yellow Card	Total NPR 200,000 Land Purchase – NPR 200,000
C	Have land and no house	Green Card	Total NPR 325,000 House Construction – NPR 325, 000
D	Have both land and house	White Card	Total NPR 125,000 House repair and maintenance – NPR 325, 000

The study reveals that the distribution pattern of ID card according to the situation of the freed Haliyas and the rehabilitation package they received do not match at all. The one with type A should receive the rehabilitation package for both land purchase and house construction but the data (Table no. 3) shows that only few respondents have received service on different headings. Similar case is with other type of ID cards as well.

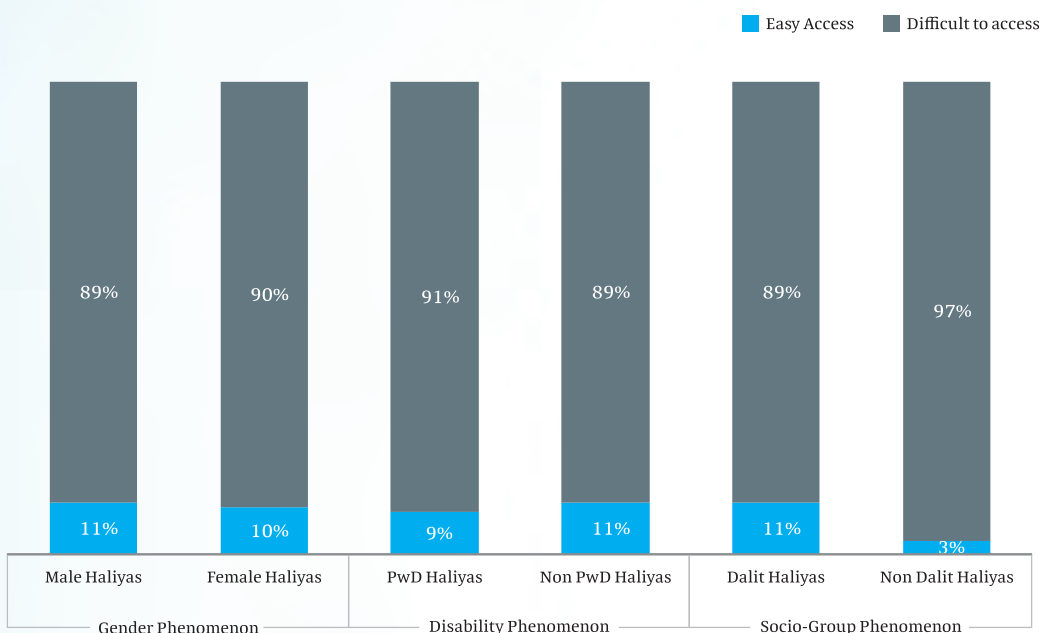
The data also shows that majority of freed Haliyas have received D type of ID card even though their situation is worse. They do have land and house, but the space is too small even to construct a latrine. Even they are far from the access to the public services and do not have road link. The majority of the freed Haliyas who have the Haliya ID card are also suffering from the false categorization. The one who don't have land and house both are provided with C types and the one who have both land and house are provided with the sum amount of NPR 525,000 which was supposed to be provided to the ID card of A type- the vulnerable among other groups. This shows that the local government did not assess screening the freed Haliya to assign ID card before distributing the rehabilitation package.

Table no. 3: Type of rehabilitation service received by freed Haliyas according to the type of Haliya ID cards

Type of Services	2021				2022			
	A - Red	B - Yellow	C - Green	D - White	A - Red	B - Yellow	C - Green	D - White
House Construction	7	25	0	0	7	17	60	6
House Maintenance	3	110	16	340	3	202	11	381
Land Purchase	2	16	0	0	3	20	0	0
Land Purchase + House Construction	72	6	0	0	63	8	11	0
Total	84	157	16	340	76	247	82	387

Analyzing the rehabilitation service data through the gender lens, it's similar in case of both male and female. And also there is no such differentiation with the persons with and persons without disabilities in accessing the rehabilitation package. However, Dalit freed Haliyas, have an easy access to the rehabilitation package rather than the non- Dalit freed Haliyas. The reason behind this has been the confusion among the government officials that all the Haliyas are Dalits. But, in reality, neither all Haliyas are Dalits nor all Dalits are Haliyas.

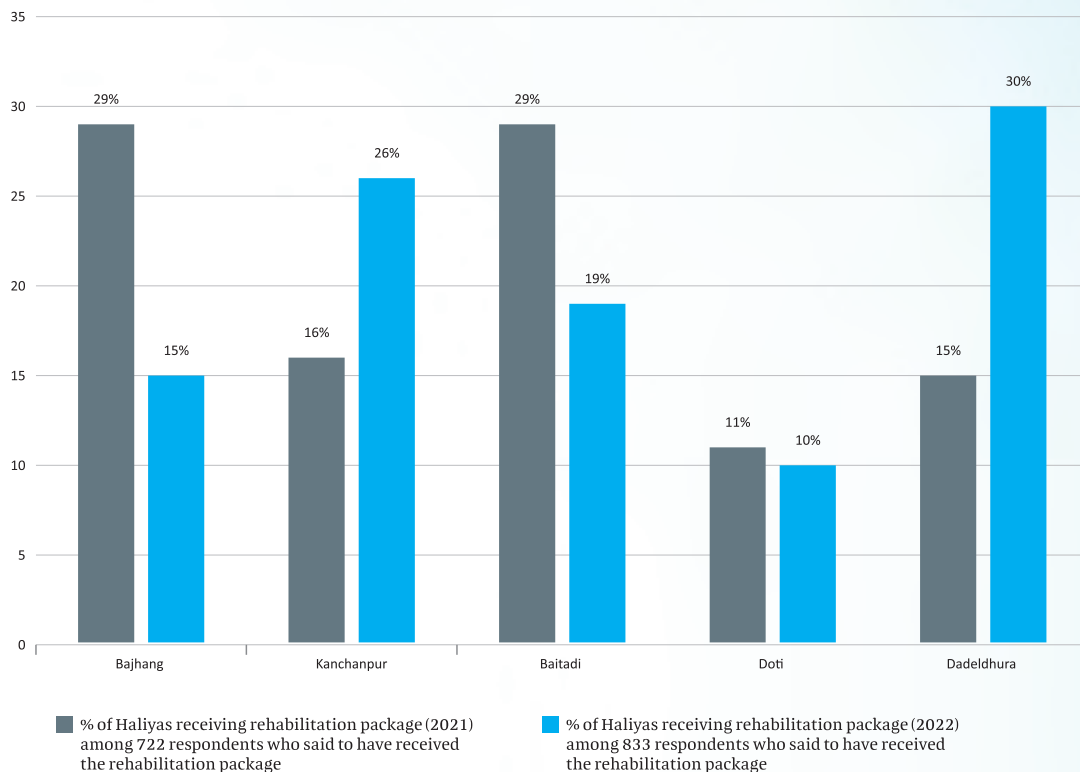
**Gender Vs Disability Vs Socio-Group pattern of Haliyas Accessibility on rehabilitation service**



**Figure 16: Analysis of Haliyas accessibility on rehabilitation service from Gender, Disability and Socio-Group Phenomenon**

The Figure 15 shows that there is a strong differentiation in the year wise pattern with geographical differentiation on the situation of the freed Haliyas receiving the rehabilitation package. The reason is the same, within districts, different communities have been reached.

### Percentage of Haliyas receiving rehabilitation package



**Figure 17: District wise distribution of Haliyas receiving the rehabilitation package**

The main finding - despite the variation - is that in all districts less than one third of the freed Haliyas has received the rehabilitation package. The reasons provided by the duty bearers and rights holders were rather similar.

They highlighted following issues:

- ▶ Delay in developing the Workplan by the freed Haliya leaders
- ▶ Less interest of the Government to the issues of the freed Haliyas
- ▶ Commission or Committee being not formed at the Centre Level- Federal level
- ▶ No special provision - laws and guideline to work on freed Haliya issues specifically
- ▶ Government unable to reach the freed Haliya households during data collection
- ▶ Lack of information flow from the Government
- ▶ No any accurate data of freed Haliyas and collected data need to be verified/ Re-collection of data on freed Haliyas

- ▶ The government has given less attention to Freed Haliya issues
- ▶ Negligence of the Government

However, some of the Municipals have keenly taking initiatives on the freed Haliyas issues. Those municipals are waiting for clear instruction from the provincial and federal to work for the freed Haliya issues. Saraswoti Koli, the former Deputy Mayor of Patan Municipality of Baitadi district was from the freed Haliya family and she continuously raised the issues of the freed Haliyas and was able to bring few programs for the welfare of the freed Haliyas.

Few of the recent initiations done by government so far are listed below:

- ▶ Patan municipality and Surnaya Rural Municipality of Baitadi in the project area have passed the freed Haliya rehabilitation guideline. Surnaya Rural Municipality has allocated NPR 500,000 specifically for the Freed Haliyas Skill Enhancement program for the fiscal year 2079/80. Further, 20 lakhs for Dalits, 8 lakhs for PwDs and 20 lakhs for women.
- ▶ The 7 local levels of Doti have decided to prepare a guide line for the rehabilitation of freed haliyas.
- ▶ The Ministry of Economic Affairs of Sudurpaschim Province allocated NPR 35,00,000 for Freed Haliya Cooperatives of Kanchanpur.
- ▶ Surnaya Rural Municipality has completed the distribution of freed Haliya identity cards.

The community meetings conducted with Haliyas during fact finding mission revealed that during the data collection carried out by the Government, number of people who were not Haliyas were also provided rehabilitation package. The case was – few treacherous so called upper caste people provided the name of the low caste people saying that they have worked as Haliya at their land. After they get land, the so called upper caste purchased from the low caste people in the half amount.

With the cases we studied, the landlords are still holding the document (Tamasuk)<sup>10</sup>. The freed Haliyas have a fear that in future, the landlords might misuse such paper to force them to work in their homes.

Acquiring information about the freed Haliya is tricky: due to a fear of their previous landlords, they do not present themselves with their names when the government conducts data collection or they use their nick names. Alas, due to the errors on recording the correct name, many of the freed Haliyas have been left out.. The evidence shows that during the data collection by Government collectors sit in one place and haphazardly collected the names without visiting individual houses.

The study found out cases where the freed Haliyas who had received rehabilitation package were also not paid fully as promised. The study also could meet 8 persons who have received the rehabilitation package but till date they have not received the 2<sup>nd</sup> installment of the rehabilitation package. The amount provided as a rehabilitation package is not enough to buy a small piece of good land, so families are compelled to buy a land at river banks. There they are vulnerable to the floods and other natural disasters. So, the freed Haliya experts argue that such rehabilitation package could not uplift the situation of the freed Haliyas instead integrated approach should be designed for the freed Haliya communities so as to live a life.

<sup>10</sup> Tamasuk is note of hand attested by the debtor/ written acknowledgement of debt

Number of cases collected on human rights violation in freed Haliyas also demonstrated that unavailability of the legal identities as freed Haliyas is an impediment to receive the government services and entitlements (Case 9).

### **Case 9: Lack of Legal identity hurdled a Dalit Haliya to receive government entitlements**

A 30-year-aged man, named DikhraSarkiwho is a farmer by profession, could not work now because of his poor mental health. He is living in Thalara Rural Municipality with his family of five members. His economic condition is poor and physically unable to work due to which it became difficult to fulfill a day's meal.

He has neither a Haliya card nor any other way to get subsidies and relief from the government or from any other INGOs/NGOs. Without identity cards, he has been deprived of all the government services. Not only that, he has been facing discrimination, verbally abuse from society. Difficulties in various legal systems lead to the inability to get any type of ID card and relief materials from the government/ INGOs/NGOs.

## CHAPTER 5

# Discussion and Conclusions

The study analyzed the experienced situation of ESC rights among the freed Haliya and reflected the findings with those of the duty bearers, which provides insights how those governmental initiatives can be turned into practice.

In terms of right to health and education, the data shows gaps of different magnitude. There is a huge variation according to the geographic regions, which necessitates the governance to tailor spatially specific solutions. The district like Kanchanpur which lies in an accessible plain area have the group of Haliya settlements that are far behind in reach to government services; even the duty bearers are far in reach to those settlements. With the help of funding agencies, CSOs are working to advocate on gaps in the policy and implementation practices to improve their ESC rights situation. In Doti district, though the access to health service by freed Haliyas is lesser in comparison to other districts, an access to education by them is higher. In other project districts – Bajhang, Daleldhura and Baitadi, an accessibility trend is in progressive form.

One of the key issues in realization of the ESC rights of the Haliyas is the slow and unsystematic identification of the real Haliyas. The subsequent action to enact on the systematic rehabilitation service could not be figured out in a state when their identities are yet to be completed. Livelihood options for the Freed Haliya families remain scarce because of two major reasons – because most of them are from so-called lower caste groups in predominantly so-called high caste dominant socio-economic and political structure. Secondly, the lack of access to the resources, decision making structures and their compulsion to work underpaid under-respected circumstances for the bare survival of their families.

The findings of this study also suggest that Doti district is far behind among the other project districts in fulfilling the Haliya rights. With enormous effort of CSOs working for Haliyas, Haliya activists and government, there is a strong indication from the duty bearers at Doti and Baitadi that they are gradually beginning to the phase for the verification of the real Haliyas for preceding the rehabilitation package. In case of Baitadi, one of the duty bearers in higher position was from Haliya community – Saraswoti Koli was successful in allocating budget and making the Municipalities work for the community. This is evident that freed Haliyas representation in the political party triggers the government authorities to focus on the freed Haliya issues.

The report also draws the attention to three major phenomena on respecting and fulfilling the human rights challenges – gender, disability and socio group strata. Women within Haliyas often have lesser accessibility to any of the services. So is with the Dalit Haliyas among the non-Dalit Haliyas. Unlike this, for PwDs, it was evident that, the government

services are comparatively more accessible. This is the fact that Disabled People Organizations (DPOs) and government has a special focus on the improving the services to the PwDs who are considered most vulnerable group of the community.

In line with this, the single woman, who are from Dalit and Haliya community and also with disability are one of the most vulnerable groups considered in ADHICAR project. A total of 138 single women were surveyed from this group. It was found that a single woman from the Dalit community with having disability is the one who are facing multiple forms of discrimination and vulnerabilities in the society. Though a single woman with from non-Dalit haliya families are found least discriminated in schools, health centers or workplace, 96% of freed Haliyas women of this group revealed that they have no easy access to the rehabilitation package and 88% are without Haliya ID card which leads more vulnerable to sustain their life. The reasons as expressed by them are: i) they are given less importance in every decision and event – discriminatory behavior; ii) inadequate information on their rights and entitlements.

The study had focused on discrimination in three major sectors – health, education and workplace among the other ESC rights. The data suggests that the freed Haliyas have found some forms of discrimination in all these sectors – 18% of respondents at schools and health centers. Moreover, it is seen that comparatively, the Haliyas are discriminated more at workplace.

The study also highlights the fact that, Surnaya Rural Municipality from Baitadi has completed the data collection process and identified only 81 Haliyas within the Municipal. Contrary to this, the study report presents more number of Haliyas (n=>291). So, the report encourages to stronger localization of government accountability to the finding of the report. Freed Haliya rehabilitation Guide Line, Action Plan and Integrated bonded Labor Act final draft has been prepared by the government of Nepal and has a Commitment from the Government to form “National land Commission” and solve the Haliyas issues on rehabilitation service within two years’ time period from 2022. (Minimum policy and program of Nepal Government, page 11).

## CHAPTER 6

# Recommendations

Based on the findings of the study, recommendations are made for three tiers of the Government, for the enjoyment of the ESC rights by freed Haliyas. The recommendations are provided on four major thematic areas of the ESC rights surveyed under the ADHICAR project and based on the data set obtained from ESC rights monitoring by citizen-led community monitoring.

The local level government is more responsible and better suited to solve the freed Haliyas' issues at the grassroots' level. Some recommendations are specified on the four surveyed themes of ESC rights. However, Provincial level Government has less impact and comparably, Federal level has the highest power on formulating and enforcing the law and its national and international obligations and commitments. Therefore, recommendations are categorized accordingly.

### Recommendations for Local Level Government

#### ▶ Right to Education

- The physical infrastructure of schools and roads connecting the freed Haliyas to the community schools/ public schools should be disability and child friendly.
- Local Government should allocate special quotas for freed Haliya children (especially up to the undergraduate level).
- Children of freed Haliyas should be waived from paying the additional fees/ charges that are levied by the schools including electricity and exam fee charges in order to ensure their access and continuation of their studies at school

#### ▶ Right to Health

- Organize Mobile Health Camps once in three months within the Haliya community. It is important that the health camps are have a balanced participation based on gender and socio group. Moreover, the health professional or medical officer should make visits as part of his/her service to reach the most vulnerable group of communities – women and PwDs.
- Nearly 95% of the Haliyas are living below the poverty line. Therefore Municipalities should bring a provision of special health service quota for the freed Haliyas (100% fund managed by Municipalities for the freed Haliyas suffering from chronic diseases or Municipalities can link to the concerned authorities for the free treatment support)



- Health centres should be equipped with experienced health professionals and adequate supplies of the 35 free medicines provided by the Government. The centre level health unit should regularly monitor whether the medicines and services provided at health centres are adequate and are reaching the freed Haliyas and other disadvantaged communities.

#### ▶ **Right to Decent Work**

- The Government needs to identify and make an inventory profile of the freed Haliyas who still have to work as Hali
- Duty bearers are recommended to prioritize to support to each Haliya household with employment opportunities – One Household One Employment provision
- Municipalities should monitor the wages that are being provided to Haliyas, and evaluate the levels of safety, security and protection at work.
- Equal wages for similar nature of work regardless of gender and caste should be strictly monitored and enforced.

#### ▶ **Right to Housing/Rehabilitation Package**

- Municipalities are recommended to have adequate instruments and resources to secure the effective implementation of rehabilitation services
- Municipalities should immediately initiate data collection, verify with real Haliyas and proceed with registering names to provide Haliya ID cards. It is also recommended to re-evaluate the categorization of the ID cards issued earlier in order to provide justice to the rights holders.
- The general practice of the rehabilitation package amount is not sufficient. An integrated rehabilitation package should be provided for the identified Haliyas with easy and affordable access to electricity, drinking water and security.
- The data sets brought up by the Haliya Federation should be taken as reference by municipalities for further verification to be carried out by the government.

#### ▶ **Recommendations for Provincial Level Government**

- Provincial level Government should guide the local government in the implementation of rehabilitation services and the commitments made while declaring freedom for the freed Haliyas. It needs to develop policies and plans covering the whole province, focusing on freed Haliya-affected municipalities;
- Provincial Government should also allocate budget periodically for freed labourers and provide grants to the local government as special programme for freed Haliyas;
- Ensure participatory policy making, planning, budgeting and implementation focusing on the most vulnerable and marginalized communities;

#### ▶ **Recommendations for Federal Level Government**

- Federal Level Government should update or change the amount of the rehabilitation package distributed to the Haliyas as per the time (year). NPR 3 lakh is not sufficient. Moreover, an integrated rehabilitation process should be focused on improving the situation of freed Haliyas in the Integrated bonded labor act.
- The freed Haliya rehabilitation Guidelines, Action Plan and Integrated bonded Labor Act that have been prepared by the Haliya Federation should be passed or enacted by 2025 latest.

- The federal government is recommended to re-evaluate the implementation status of the free Haliya initiative and ensure that its national and international commitments and obligations for the fulfillment of the ESC rights of the freed Haliyas are met.
- The Government of Nepal should also allocate budget periodically for freed labourers and provide grants to the local and provincial government as a special programme for freed Haliyas;
- Ensure participatory policy making, planning, budgeting and implementation focusing on the most vulnerable and marginalized communities

# ANNEXES

## Haliyas Households Coverage through ADHICAR Project

District	Municipals	No. of Haliyas Households Covered		Total
		(n=2567 in year 2021)	(n=7982 in year 2022)	
Baitadi	Dashrathchand M	205	937	1142
	Patan M	364	239	603
	Dogada Kedar RM	53	396	449
	Surnaya RM	61	230	291
Bajhang	Jayaprithvi M	608	786	1394
	Thalara RM	142	379	521
Dadeldhura	Amargadhi M	458	399	857
	Navdurga RM	1	445	446
	Parshuram M	0	1288	1288
Doti	Jorayal RM	47	214	261
	Shikhar M	9	1002	1011
	Sail RM	232	408	640
Kanchanpur	Sukhlaphanta M	252	529	781
	Krishnapur M	43	263	306
	Bhimdatta M	92	467	559
Grand Total		2567	7982	10549

## Haliya ID card and Rehabilitation Package distribution Status (Data obtained through ESCR app under ADHICAR project)

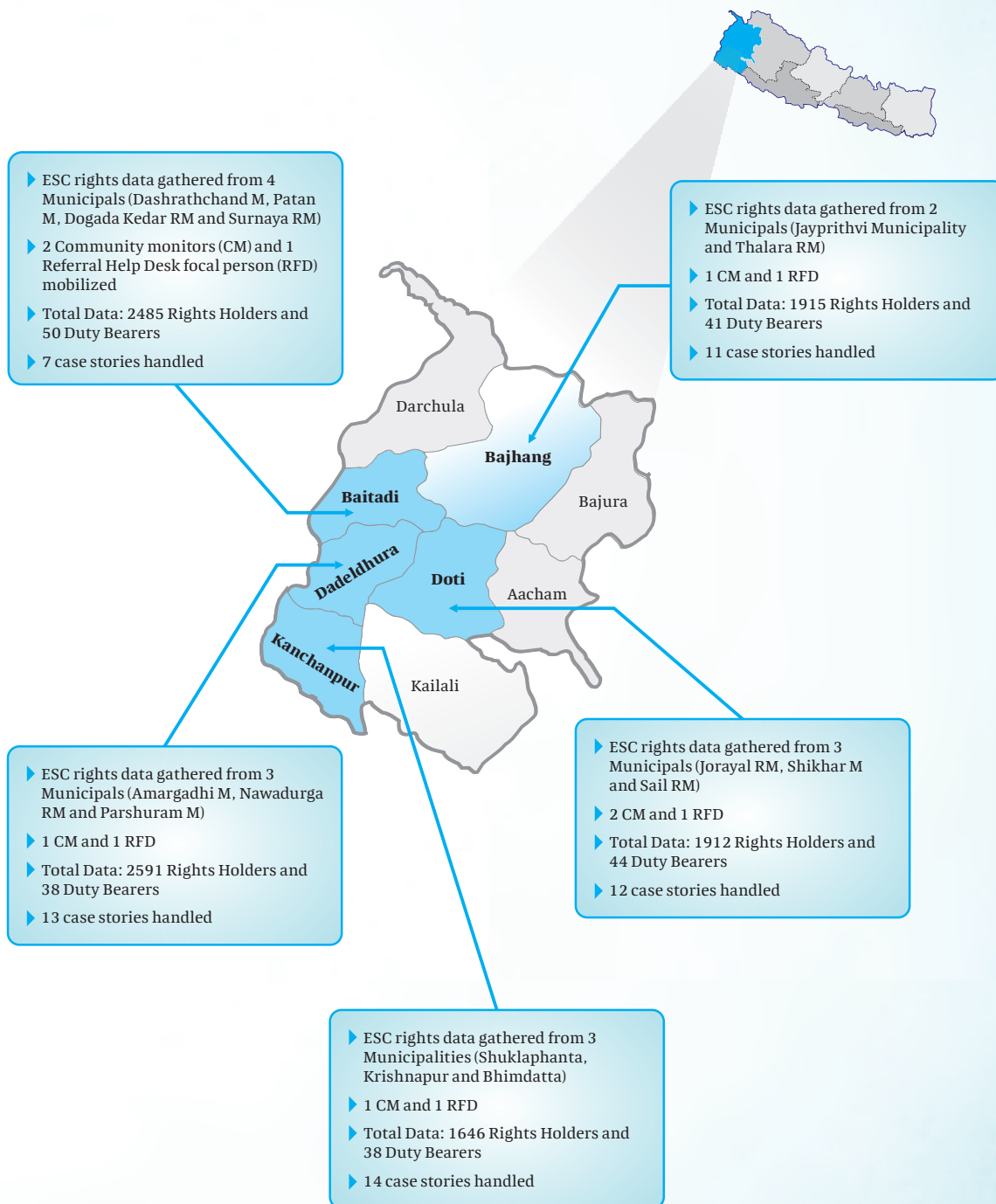
District	Municipals	Total Haliya Households covered	2021										2022				
			Households with Haliya ID cards	Type of Haliya cards				No. of households who received rehabilitation package	Households with Haliya ID cards	Type of Haliya cards				No. of households who received rehabilitation package			
				A-Red	B-Yellow	C-Green	D-White			A-Red	B-Yellow	C-Green	D-White				
Baitadi	Dashrathchand M	1142	10	3	0	0	0	7	9	77	16	23	7	31	42		
	Patan M	603	61	9	11	0	41	51	13	0	0	0	13	11			
	Dogada Kedar RM	449	3	0	3	0	0	3	113	2	19	1	91	37			
Bajhang	Sumaya RM	291	27	1	0	0	26	27	188	6	154	0	28	37			
	Jayapriithvi M	1394	203	16	21	0	166	183	90	1	6	4	79	85			
	Thalara RM	521	22	2	3	0	17	22	35	2	14	0	19	33			
Dadeldhura	Amargadhi M	857	114	13	29	14	58	111	59	0	1	11	47	56			
	Navdturga RM	446	0	0	0	0	0	0	133	11	11	35	76	126			
	Parshuram M	1288	0	0	0	0	0	0	78	31	16	15	16	69			
Doti	Joroyal RM	261	7	2	5	0	0	6	11	0	4	7	0	10			
	Shikhar M	1011	70	12	32	0	26	70	36	8	27	0	1	34			
	Sail RM	640	6	2	2	0	2	6	38	5	8	2	23	37			
Kanchanpur	Sukhlaphanta M	781	64	13	38	2	11	62	89	18	63	1	7	72			
	Krishnapur M	306	16	0	3	0	13	15	47	2	33	1	11	46			
	Bhimdatta M	559	32	18	14	0	0	32	102	10	49	6	37	97			
Grand Total		10549	635	91	161	16	367	597	1109	112	428	90	479	792			
No. of rehabilitation received as per Haliya ID card type			84	157	16	340			76	247	82	387					

## Status of Haliya ID card and rehabilitation package service of Project Districts (Based on Fact Finding Mission conducted under ADHICAR project)

District	No. of freed Haliyas registered	Municipality/Rural Municipality	No. of freed Haliyas with Haliya ID card				Status of freed Haliya ID card				No. of freed Haliyas rehabilitated	Status of freed Haliyas rehabilitated				No. of freed Haliyas not registered (Expected number)	
			A	B	C	D	A	B	C	D		A	B	C	D		
Dadeldhura	2551	Amargadhi RM	254	22	48	47	137	22	48	47	137	254	22	48	47	137	600
		Parshuram M	191	84	34	38	35	84	34	38	35	191	84	34	38	35	1800
		Nawadurga RM	577	58	131	121	267	58	131	121	267	577	58	131	121	267	900
Doti	1321	Shikhar M	331	88	142	12	89	88	142	12	89	325	87	140	11	87	889
		Joroyal RM	140	15	108	0	17	15	108	0	17	127	12	98	0	17	385
		Sayal RM	130	29	32	5	64	29	32	5	64	112	21	28	0	63	295
Baitadi	2147	Dashrathchand M	197	41	42	1	113	41	42	1	113	183	27	42	1	113	2000
		Patan M	150	9	42	0	99	9	42	0	99	150	9	42	0	99	750
		Dogadakedar RM	317	25	77	2	213	25	77	2	213	316	24	77	2	213	500
Bajhang	2945	Surnaya RM	81	4	3	0	74	4	3	0	74	81	4	3	0	74	499
		Jayaprithvi M	663	12	106	12	533	12	106	12	533	648	12	106	12	518	250
		Thalara M	477	8	27	9	433	8	27	9	433	443	8	18	4	413	475
Kanchampur	2699	Bhimdatta M	538	97	173	34	234	97	173	34	234	433	44	152	21	216	353
		Shuklaphanta M	367	82	170	4	111	82	170	4	111	289	27	161	4	97	352
		Krishnapur M	177	37	83	4	53	37	83	4	53	89	3	43	2	41	205
Total	11663	Total	4590	611	1218	289	2472	611	1218	289	2472	4218	442	1123	263	2390	10253

Source: Land Revenue Office of respective districts and Municipals record

## Overview of ESC rights monitoring on Freed Haliya Rights at Sudurpaschim Province of Nepal



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## About Partner Organizations



Campaign for Human Rights and Social Transformation, Nepal Campaign for Human Rights and Social Transformation, Nepal is a national organization working in the field of human rights. It is an organization established with the objective of providing assistance in the field of human rights for the social transformation, the main goal of the political change brought to Nepal by the People's War that had been going on in Nepal since 1995 AD and the United People's Movement of 2006 AD. Working in the fields of good governance, morality, democracy, peace and human rights, this organization is basically working in the field of guaranteeing economic, social and cultural rights. In particular, this organization has envisioned a dignified, cultured and just society. In addition, this organization is also committed to and is working on establishing civil and political rights in the areas of human rights

Felm is an internationally active organization founded in 1859 AD and is one of the largest Finnish Civil Society Organizations working on global development. The aim of Felm is to promote human dignity and justice around the world. Felm currently works in 12 countries in Asia, Africa and Latin America, and with more than 30 partner organizations. Felm strives for positive and lasting change in developing countries, where the voice of all can help build the world through the realization of human rights. Since 2009, Felm has been working as Felm Nepal, a non governmental organization affiliated with the Social Welfare Council. Felm has been working in Nepal since 1977



LWF Nepal is a program of LWF World Service (WS) which has been working with the marginalized and deprived classes or communities of Nepal since 1984 AD. The World Service is an internationally recognized humanitarian and development branch operating in 28 countries around the world and is headquartered in Geneva, Switzerland. It works with those in need, regardless of their race, gender, religion, nationality or political affiliation, and seeks to bring people from all backgrounds of this increasingly complex and fragmented world in a shared quest for justice, peace, and reconciliation.

The Haliya Federation is an umbrella organization for freed Haliya registered in the District Administration Office, Dadeldhura in 2007 AD. It includes 12 district branches of Sudurpaschim and Karnali Pradesh. After reaching a five-point agreement with the Government of Nepal, this organization is working for the liberation and rehabilitation of Haliyas and has been continuously lobbying for the promotion of human rights and social justice of the freed Haliyas. Vision: Creation of equitable society and liberation from social slavery, Haliyas' prosperity Mission: To build a just society by ensuring meaningful participation and sustainable livelihood of the freed Haliya in the resources and the bodies of the state. Goal: Dignified life for freed Haliyas is ensured following just rehabilitation







Mrs. Saraswati Koli, Former Deputy Mayor of Patan Municipality sharing her effort for addressing the Haliya issues



Lead Fact Finder consulting with CDO of Dadeldhura district during fact finding mission

आर्थिक, सामाजिक तथा साँस्कृतिक  
अधिकारप्रति हाम्रो प्रतिबद्धता ।

सम्पूर्ण मानवअधिकारको संरक्षणमा  
अभियानको क्रियाशिलता ।

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



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