

Indigenous Peoples Planning Framework

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Prepared by Dhaka Electric Supply Company; Dhaka Power Distribution Company; and Power Grid Company of Bangladesh for the Government of Bangladesh and the Asian Development Bank

ABBREVIATIONS

ADB	Asian Development Bank
AMD	Agricultural Marketing Directorate
AP	Affected Person
BAN	Bangladesh
BPDB	Bangladesh Power Development Board
CCL	Cash Compensation Based on Law
DA	District Administration
DC	Deputy Commissioner
DESCO	Dhaka Electric Supply Company
DPDC	Dhaka Power Distribution Company Limited
DMS	Detailed Measurement Survey
DOF	Department of Forest
DS	Distribution System
EA	Executing Agency
FGD	Focused Group Discussion
GOB	Government of Bangladesh
GRC	Grievance Redress Committee
INGO	International Non-government Organization
IR	Involuntary Resettlement
JVT	Joint Verification Team
km	kilometer
kV	kilovolts
MFF	Multi-tranche Financing Facility
MOL	Ministry of Land
MOPEMR	Ministry of Power, Energy and Mineral Resources
MW	Megawatt
NGO	Non-government Organization
NWPGCB	Northwest Power Generation Company of Bangladesh
PFR	Periodic Financing Request
PGCB	Power Grid Company of Bangladesh
PPTA	Project Preparatory Technical Assistance
PM	Project Manager
PMU	Project Management Unit
PVAT	Property Valuation Advisory Team
PWD	Public Works Department
RCV	Replacement Cost Value
REB	Rural Electrification Board
REMDP	Resettlement and Ethnic Minority Development Plan
RF	Resettlement Framework
RO	Resettlement Officer
RP	Resettlement Plan
SG	Survey Group
ROW	Right of Way
SPS	Safeguard Policy Statement
Tk	Taka
TOR	Terms of Reference
TL	Transmission Line

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CONTENTS

I.	ETHNIC COMMUNITIES OF BANGLADESH	1
A.	Terminology	1
II.	LAWS TO PROTECT THE INTEREST OF SMALL ETHNIC COMMUNITIES	3
III.	INDIGENOUS PEOPLES PLANNING FRAMEWORK (IPPF)	3
IV.	INDIGENOUS PEOPLES PLAN (IPP)	4
A.	Screening	4
B.	Social Impact Assessment	5
C.	Outline of the IPP	5
D.	Mitigation Measures	6
V.	CONSULTATION & INFORMATION DISCLOSURE	6
VI.	GRIEVANCE REDRESS MECHANISM	6
VII.	INSTITUTIONAL FRAMEWORK AND BUDGET	6
VIII.	MONITORING AND REPORTING	7

I. ETHNIC COMMUNITIES OF BANGLADESH

A. Terminology

1. Different terms are used to refer to SEC peoples. Some government agencies prefer the term “upajati” (literally “sub-nation”) and “akin” (tribe) to “adibashi” (indigenous or aboriginal). In legal and policy documents and in official correspondence, one finds (i) “indigenous”, (ii) “aboriginal”, (iii) “adivasi”, (iv) “ethnic minority”, (v) “hillmen/hill people”, and (vi) “upajati” (sub-nation/tribe/tribal) to refer to indigenous peoples of Bangladesh. However, recently the government issued a circular requesting to use the term SEC when referring to indigenous peoples in Bangladesh. Conforming to this requirement, the program will use SEC to refer to indigenous peoples of Bangladesh¹.

2. The number of the different SECs and their respective populations are not known. According to the National Strategy for Accelerated Poverty Reduction² of the GOB, there are “45 different small ethnic communities” in Bangladesh. Recent Chittagong Hill Tract (CHT) laws, including the CHT Regional Council Act of 1998 (Act XII of 1998), recognize 11 ethnic groups in the three hill districts of CHT, while the East Bengal State Acquisition and Tenancy Act of 1950 (Act XXVIII of 1950), which applies to the rest of the country outside CHT, recognizes 21 “aboriginal castes and tribes” in the plains districts. The official census of 1991, on the other hand, recognizes 11 “tribes”.

3. The official census of 2001 does not contain ethnically disaggregated data. According to another study,³ ethnic households spread over in 17 districts of Bangladesh and constitute about 1.5% of total population of the country (Bangladesh Bureau of Statistics, 2005). The national Poverty Reduction Strategy (2009-2011) contains the following observation regarding the poverty status and overall situation of the country’s SECs: “*Some of the hardcore poor of Bangladesh are found among the indigenous communities. Indigenous communities face discrimination and sometimes, are subject to extortion by land grabbers. The level of social awareness among them is very low. Many suffer from ethnic prejudice, less or no education, ill-health, bad nutritional conditions, and bad hygiene*”.⁴ However, the official census and the Bangladesh Bureau of Statistics do not contain adequate disaggregated data on indigenous peoples. They only identified 30 tribal groups in Bangladesh in 1991 census, whose distribution by division is shown in Table 1.

¹ The GOB does not endorse the term “Indigenous Peoples” officially and prefers to use the term “Small Ethnic Community” for the same group of people. This document will use the single term SEC to mean all Indigenous Peoples/SEC peoples of Bangladesh.

² National Strategy for Accelerated Poverty Reduction, 2008.

³ Rafi, 2006.

⁴ Nasreen, M. (2007), Social Inclusion: Gender and equity in Education SWAp – A Case Study in Bangladesh p.48-9.

Table 1: Areas of Small Ethnic Minority People's Concentration in Bangladesh⁵

Sl.	Areas of Concentration	IP	Predominant IPs	% National IPs	% of District Populations
	Plains				
1	Rajshahi Division : Naogaon, Dinajpur, Rajshahi, Rangpur & Joypurhat Districts		Santal, Munda and Oraon	36	4
2	Sylhet Division: Maulavibazar and Hobigonj Districts		Khasia, Manipuri, Patro, Garo and Tripura	8	3
3	Madhupur Area of Dhaka Division		Garo/Mandi	7	2
4	Patuakhali (Barisal Division) and Cox' Bazar (Chittagong Division) Districts		Rakhain	6	
5	Khulna Division: <i>Sundarbans</i>		a. Munda	2	
	Hills				
6	Rangamat CHT: i, Bandarban and Khagrachari		Chakma, Marma, Tripura and 8 more groups	41	44
	Total			100	--

CHT = Chittagong Hill Tracts, IP = indigenous peoples.

Source: Asian Development Bank.

4. According to the Statistical Year Book of Bangladesh (2008), about 41% of the total ethnic people of the country live in CHT in three hill districts namely Rangamati, Bandarban, and Khagrachari. They constitute about half of the total district population.⁶ The majority of them belong to Chakma, Marma, and Tripura groups. This is reflected in the CHT Accord of 1997 and the post-Accord legislation, including the CHT Regional Council Act of 1998 (Act XII of 1998). The findings of a socioeconomic baseline survey conducted by the Bangladesh Rural Advancement Committee in 2005 in the CHT⁷ showed the acutely disadvantaged situation of the population of the CHT, particularly of the SEC peoples, as compared with the population of the rest of the country. The report showed that only 7.8% of the community completed primary education and only 2.4% completed secondary education. 18% of the total population of the region was dependent upon farming/cultivation for their livelihood. The annual average rural household income was around Tk66,000 (US\$933.5), while in the rest of Bangladesh it was Tk84,000 (US\$1,188) (Hossain, K.M., 2005).

5. The socioeconomic status of most SEC in the plains, particularly in the north-western Rajshahi, is known to be even worse than that of SECs in the CHT. From a study on the indigenous peoples of north-west Bangladesh, a researcher on Adivasis makes the following

⁵ Government of Bangladesh, Bangladesh Bureau of Statistics. 2001. Dhaka.

⁶ Elahi. (1990).

⁷ Hossain K.M. (2005).

observation on well-being and food security of the indigenous peoples “... *the colonial history of Adivasis is, in many respects, a disturbing one of exploitation, deprivation, deteriorating livelihoods and occasional experience of famine, as well as the regular, unavoidable autumn periods of food scarcity. On the other hand, their history is one of an extraordinary ability to cope with crises, shocks and stresses.*” Another writer, a well-known authority on the Adivasis of Bangladesh, mentions the common instances of land-grabbing perpetrated against Adivasi communities in north-west Bangladesh, through the discriminatory use of the Vested Property Act, 1974. The socioeconomic situation of SEC peoples in other parts of the plains is also vulnerable.

II. LAWS TO PROTECT THE INTEREST OF SMALL ETHNIC COMMUNITIES

6. The East Bengal State Acquisition and Tenancy Act of 1950 restricts the sale of lands of “aboriginal castes and tribes” to anyone other than aboriginal castes and tribes domiciled in Bangladesh. It recognizes 21 “aboriginal castes and tribes” in the country. The CHT-Accord applies only to the CHT region. Five major acts of the CHT-Accord address crucial aspects of the SEC groups’ rights, in addition to customary law on family and resource rights of indigenous peoples. Bangladesh has also ratified the International Labor Organization Conventions, as well as several other important human rights treaties, including:

- (i) International Labor Organization Conventions on Indigenous and Tribal Populations (Convention No. 107) and on Discrimination in Employment (Convention No. 111);
- (ii) International Convention on the Elimination of All Forms of Racial Discrimination;
- (iii) International Covenant on Civil and Political Rights;
- (iv) International Covenant on Economic, Social and Cultural Rights;
- (v) Convention on the Right of the Child;
- (vi) Convention on the Elimination of All forms of Discrimination against Women; and
- (vii) Convention on Biological Diversity.

III. INDIGENOUS PEOPLES PLANNING FRAMEWORK (IPPF)

7. The Indigenous Peoples Planning Framework (IPPF) seeks to ensure that indigenous people and tribal communities are informed, consulted, and mobilized to participate in the subproject preparation. The Framework is intended to guide selection and preparation of additional subprojects under the Project where impacts on tribal people are identified to ensure better distribution of the Project benefits and promote development of the indigenous peoples in the Project areas. The framework is prepared in accordance with ADB’s procedures for sector loans as presented in ADB’s *Safeguard Policy Statement*, 2009 (SPS).

8. The IPPF is intended to guide the selection and preparation of additional projects under the project to ensure better distribution of project benefits and promote development of IPs in the project area. In cases where significant impacts on IPs are identified, this framework will be applied if necessary during the preparation of additional subproject, in accordance with the ADB’s *Safeguard Policy Statement* (SPS), 2009.

9. The IPPF is based on the overall local and national development strategies and SPS. The principle objectives are to:

- (i) ensure IPs affected by any additional project will receive culturally appropriate social and economic benefits from the project.

- (ii) Ensure IPs participate in the entire process for the preparation, implementation and monitoring of project activities and
- (iii) Do not suffer adverse impacts as a result of projects.

IV. INDIGENOUS PEOPLES PLAN (IPP)

10. An indigenous peoples plan (IPP) is required if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of the IPs or affects the territories or natural or cultural resources that IPs own, use, occupy, or claim as their ancestral domain.

11. In accordance with SPS, in case the physical relocation of IPs results in adverse impacts on their identity, culture and customary livelihoods and if such avoidance is impossible then the EA in consultation with ADB could formulate a combined Indigenous Peoples Plan and resettlement plan to address both involuntary resettlement and Indigenous Peoples issues. If indigenous people are the majority of the direct project beneficiaries and when only positive impacts are identified, the elements of the IPP could be included in the overall project design in lieu of preparing a separate IPP. In such cases the project documents should explain the requirements of meaningful consultations are fulfilled in accordance with the requirements of SPS.

12. This framework seeks to ensure that IPs are informed, consulted, and mobilized to participate in the additional subprojects. Their participation can either provide them benefits with more certainty, or protect them from any potential adverse impacts of the additional subproject. The main features of the IPP will be a preliminary screening process, a social impact assessment to determine the degree and nature of impact of each additional project, and an action plan developed if needed. Meaningful consultations with and participation of IP communities, their leaders, and local government representatives will be an integral part of the overall IPP.

A. Screening

13. The EA will be responsible for subproject preparation and implementation will visit all IP settlements near the subproject areas or in likelihood of being affected and influenced by the subproject components. Public meetings will be arranged in selected communities by the EA s with the IPI communities and their leaders to provide them information about the subproject and take their views on the subproject.

14. During this visit, the social specialist/s of the EA will undertake a screening of the tribal communities with the help of the community leaders and local authorities. The screening will cover the following aspects:

- (i) Name(s) of IP community group(s) in the area;
- (ii) Total number of IP community groups in the area;
- (iii) Percentage of IP community population to that of total area/locality population;
- (iv) Number and percentage of IP community households along the zone of influence of the proposed subproject.

15. If the results of the screening bring forth the presence of IP community households in the zone of influence of the proposed subproject, a social impact assessment will be planned for those areas.

B. Social Impact Assessment

16. The EA will undertake a social impact assessment (SIA). The SIA will gather relevant information on demographic data; social, cultural and economic situation; and social, cultural and economic impacts both positive and negative on the tribal communities in the subproject area.

17. Information will be gathered from separate group meetings within the IP community, including IP leaders; group of IP men and women, especially those who live in the zone of influence of the proposed subproject under the Project. Discussions will focus on the positive and negative impacts of the subproject as well as recommendations on the design of the subproject. The information to be gathered for the SIA should include (i) a baseline socioeconomic profile of the indigenous groups in the project area and project impact zone; (ii) assessment on their access to and opportunities they can avail of the basic and socio economic services; (iii) assessment of the short and long term, direct and indirect, positive and negative impacts of the project on each group's social, cultural and economic status; (iv) assessing and validating which indigenous groups will trigger the Indigenous peoples policy principles; and (v) assessing the subsequent approaches and resource requirements for addressing the various concerns and issues of projects that affect them.

18. The EA will be responsible for analyzing the SIA and based on it developing an action plan with the IP community leaders. If the SIA indicates that the potential impact of the proposed Project will be significantly adverse threatening the cultural practices and their source of livelihood, the EA will consider other design options to minimize such adverse impacts and will prepare an IPP.

C. Outline of the IPP

19. The IPP will consist of a number of activities and will include mitigation measures of potentially negative impacts by means of modification of subproject design and development assistance. Where there is land acquisition in tribal communities, the Project will ensure that their rights will not be violated and that they will be compensated for the use of any part of their land in a manner that is culturally acceptable to them. The compensation will be in keeping with Entitlement Matrix as provided in the resettlement framework (RF) of the Project. The IPP will include:

- (i) Baseline data;
- (ii) Land tenure information;
- (iii) Local participation;
- (iv) Information Disclosure, Consultation and Participation;
- (v) Grievance Redress Mechanism;
- (vi) Technical identification of development or mitigation activities;
- (vii) Institutional arrangement;
- (viii) Implementation schedule;
- (ix) Monitoring and reporting; and
- (x) Cost estimate and financing plan

20. The EA will submit the IPP to ADB for review and approval prior to the selection of specific subprojects. The IPP policy and measures must comply with ADB's SPS.

D. Mitigation Measures

21. The mitigation measures will be described in the IPP. The main objective will be to ensure all affected indigenous households are provided with assistance, which would help them to improve their living standards without exposing their communities to disintegration. As vulnerable groups, they are entitled to receive special assistance not only to restore and improve their income and livelihood, but also to maintain their distinct cultural identity

V. CONSULTATION & INFORMATION DISCLOSURE

22. The IP groups will be consulted during the preparation of the IPP. They will be informed of the mitigation measures proposed and their views will be taken into account in finalizing the plan. The Plan will be translated into the local language and made available to the affected people before implementation. The disclosure will be in a manner accessible to APs where there are differing levels of literacy skills.

23. As per SPS-2009 requirement, wherever physical relocation of indigenous people is required, the EA and ADB ascertain that broad community support for such activities by the affected Indigenous Peoples' communities exists, before proceeding further with the project processing. Broad community support is a collective expression by the affected Indigenous Peoples' communities, through individuals and/or their recognized representatives, of support for such project activities. In addition, as per requirement of Provisions of the Panchayats Extension to the Scheduled Areas Act (PESA), 1996, the EA has to take the consent of Gram Sabha or Panchayat as appropriate for all tribal villages wherever land acquisition is proposed and falling in Scheduled Area.

24. The IP institutions and organizations in the affected area will also be involved in implementing the IPP and in resolving any disputes that may arise.

VI. GRIEVANCE REDRESS MECHANISM

25. The IPP should clearly describe the procedures to redress the grievances of the affected indigenous peoples communities. It should also explain how the procedures are accessible to the indigenous peoples and are culturally appropriate and gender sensitive. The GRC will comprise of the District Collector or his representative, member from the Revenue Department, representative of EA. The implementing NGO will organize the GRC meetings monthly basis or as per project requirement. The nongovernment organization (NGO) will first of all register the grievances and take up with VLC for redress and any grievances not redressed at VLC level will be dealt in by the GRC. Grievances will be redressed within two to four weeks from the date of lodging the complaints, depending on severity of problem. All costs incurred in resolving the complaints will be borne by the project. A comprehensive record will be maintained by EA for all grievance proceedings and subsequent redress.

VII. INSTITUTIONAL FRAMEWORK AND BUDGET

26. The EA will have the primary responsibility for the preparation of the IPP. The EA will also prepare a detailed itemized budget taking into account all the activities associated with the formulation and implementation of the IPP. The IPP will have its own budget and will form an integral part of the overall project cost. The responsibility of financing, implementation and monitoring of the IPP will rest with the EA. A local nongovernment organization (NGO)/agency with the relevant experience will be hired to assist in planning and implementing the IPP. The

NGO/agency will be fully oriented on ADB's SPS. Any grievances under IPP will be redressed as per the same procedure prescribed under RF.

VIII. MONITORING AND REPORTING

27. The EA will set up an internal monitoring system comprising RO (as defined in the RF), NGO/agency, tribal people/IP and their institutions to monitor the plan implementation. Monitoring indicators will be established. EA will submit semi-annual monitoring report to ADB. In addition, an experienced and qualified external monitoring agency/expert will be engaged by the EA with ADB concurrence to undertake independent external monitoring of the IPP implementation. This is a prudent measure. The external experts engaged by the EA will advise on compliance issues and if any significant issues indigenous peoples issues are found, prepare a corrective action plan and or update the IPP. The external monitor will submit semi annual reports to EA and the EA will be responsible for submitting the reports to ADB.

28. Any IPP prepared under this Project will be endorsed by the EA before sending to ADB for final approval.

SPECIAL REQUIREMENTS

A. Ancestral Domains and Lands and Related Natural Resources

1. Small Ethnic Community (SEC) peoples are closely tied to land, forests, water, wildlife, and other natural resources, and therefore special considerations apply if the project affects such ties. In this situation, when carrying out the social impact assessment and preparing the SEC People's Plan, the borrower/client will pay particular attention to the following:

- (i) the customary rights of the SEC peoples, both individual and collective, pertaining to ancestral domains, lands, or territories that they traditionally own or customarily use or occupy, and where access to natural resources is vital to the sustainability of their cultures and livelihood systems;
- (ii) the need to protect such ancestral domains, lands, and resources against illegal intrusion or encroachment;
- (iii) the cultural and spiritual values that the SEC peoples attribute to such lands and resources;
- (iv) the SEC peoples' natural resources management practices and the long-term sustainability of such practices; and
- (v) the need to rehabilitate the livelihood systems of SEC peoples who have been evicted from their lands.

2. If the project involves activities that are contingent on establishing legally recognized rights to lands and territories that SEC peoples have traditionally owned or customarily used or occupied, such as land titling projects, or the acquisition of such lands, the borrower/client will integrate an action plan for the legal recognition of customary rights to such lands, territories, and ancestral domains in the SEC Plan (IPP). The action plan is normally carried out before project implementation, but in some cases it may need to be formulated concurrently with the project itself. Such legal recognition may take the following forms:

- (i) full legal recognition of existing customary land tenure systems of SEC peoples or
- (ii) conversion of customary usage rights to communal and/or individual ownership rights.

3. If neither option is possible under the national law, the IPP will include an action plan for legal recognition of perpetual or long-term renewable custodial or user rights.

4. In addition, for projects with potential impacts on SEC peoples, the borrower/client will ensure their meaningful consultation and facilitate their informed participation on matters affecting them directly, such as proposed mitigation measures, sharing of project benefits and opportunities, and implementation arrangements.

B. Consent of Affected Small Ethnic Communities

5. SEC peoples may be particularly vulnerable when project activities include (i) commercial development of the cultural resources and knowledge of SEC peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of SEC peoples. In deciding

whether to proceed with a project involving such project activities, the borrower/client will seek the consent of affected SECs.

6. For purposes of policy application, consent of affected SECs refers to a collective expression by the affected SECs, through individuals and/or their recognized representatives, of broad community support for the project activities listed in para 30. Such broad community support may exist even if some individuals or groups object to the project activities.

7. Where broad community support has been ascertained, the borrower/client will provide documentation that details the process and outcomes of consultations with SEC peoples and their organizations, including (i) the findings of the social impact assessment; (ii) the process of meaningful consultation with the affected SEC; (iii) the additional measures, including project design modification, that may be required to address adverse impacts on the SEC peoples and to provide them with culturally appropriate project benefits; (iv) the recommendations for meaningful consultation with and participation by SECs during project implementation, monitoring and evaluation; and (v) the content of any formal agreements reached with SEC and/or SEC peoples' organizations. The borrower/client will submit documentation of the engagement process to Asian Development Bank (ADB) for review and for ADB's own investigation to assure itself of the existence of broad community support for the project activities. ADB will not finance the project if such support does not exist.

8. When the borrower/client and the affected SEC peoples have major disagreements relating to the design, the IPP, or the implementation of the activities relating to commercial development of the cultural resources, physical displacement of SEC peoples, and/or to commercial development of natural resources, the borrower/client will adopt a process of good faith negotiations for resolving such differences and disagreements.

9. **Commercial Development of Cultural Resources.** If the project involves the commercial development of SEC peoples' cultural resources and knowledge, the borrower/client will ensure that the affected communities are informed of (i) their rights to such resources under statutory and customary law; (ii) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (iii) the potential effects of such development on SEC peoples' livelihoods, environment, and use of such resources. The IPP will reflect the nature and content of agreements and will include arrangements to ensure that SEC peoples receive an equitable share of the benefits to be derived from such commercial development in a culturally appropriate way.

10. **Physical Displacement of SEC Peoples.** The borrower/client will explore to the maximum extent possible alternative project designs to avoid physical displacement of SEC peoples that will result in adverse impacts on their identity, culture, and customary livelihoods. In exceptional circumstances, when avoidance is impossible, the borrower/client will prepare an IPP that could be combined with a resettlement plan. Such a combined plan needs to be compatible with the SEC peoples' cultural preferences and will include a land-based resettlement strategy. Where possible, the plan will allow the affected SEC peoples to return to the lands and territories they traditionally-owned or customarily-used or occupied if the reasons for their relocation cease to exist. The plan should include provisions to rehabilitate such lands, if needed.

11. **Commercial Development of Natural Resources.** If the project involves the

commercial development of natural resources (such as minerals, hydrocarbons, forests, water, or hunting or fishing grounds) within customary lands under use by SEC peoples, the borrower/client will ensure that the affected communities are informed of (i) their rights to such resources under statutory and customary law; (ii) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (iii) the potential effects of such development on the SEC peoples' livelihoods, environment, and use of such resources. The borrower/client will include in the IPP arrangements to enable the SEC peoples to receive in a culturally appropriate manner an equitable share of the benefits to be derived from such commercial development that is at least equal to or higher than that of any other affected landowners.

C. Small Ethnic Community Peoples and Development

12. In furtherance of the objectives to benefit SEC peoples, developing member countries can ask ADB to support them in their development planning and poverty reduction strategies by providing financial assistance for a variety of initiatives, such as the following: (i) strengthen local legislation to establish legal recognition of the customary or traditional land tenure systems of SEC peoples; (ii) enhance participation by SEC peoples in the development process by incorporating their perspectives into the design of development programs and poverty reduction strategies and providing them with opportunities to benefit more fully from development programs through policy and legal reforms, capacity building, and meaningful consultations, participation, and empowerment; (iii) support the development priorities of SEC peoples through programs developed by the government in cooperation with SEC peoples; (iv) address the gender and intergenerational issues that exist among many SEC peoples, including the special needs of SEC women, youth, and children; (v) prepare participatory profiles of SEC peoples to document their culture, demographic structure, gender and intergenerational relations, social organization, institutions, production systems, religious beliefs, and resource use patterns; (vi) strengthen the capacity of SECs and their organizations to prepare, implement, monitor, and evaluate development programs; (vii) strengthen the capacity of government agencies responsible for providing development services to SEC peoples; (viii) preserve and respect SEC knowledge, including strengthening intellectual property rights; and (ix) facilitate partnerships among the government, SEC peoples' organizations, civil society organizations, and the private sector to promote SEC peoples' development programs.