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Tharu Barghar-Mukhiya Indigenous Model: A Case Study of Tharu Community of Nepal

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Tharu *Barghar-Mukhiya* Indigenous Model: A Case Study of Tharu Community of Nepal

by

Narayan Bahadur Khadka

A Dissertation Presented to the
College of Arts, Humanities, and Social Sciences of Nova Southeastern University
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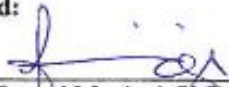Doctor of Philosophy

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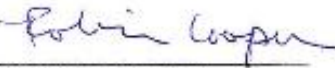
This dissertation was submitted by Narayan Bahadur Khadka under the direction of the chair of the dissertation committee listed below. It was submitted to the College of Arts, Humanities and Social Sciences and approved in partial fulfillment for the degree of Doctor of Philosophy in Conflict Analysis and Resolution at Nova Southeastern University.

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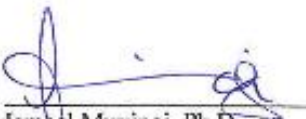
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April 14th, 2016
Date of final approval

Ismael Muvingi, Ph.D.
Chair

Dedication

This Dissertation is dedicated to the Tharu, the cultivators of the Terai of Nepal. Also, this product is dedicated to my parents ----Harka Bahadur Khadka and Harikala Khadka, who are still living with Tharu people in Bara District of Nepal, without them, I would not be the person where I am now.

Last, but not least, this work is also dedicated to my wife Bandana Khadka, who is incredibly inspiring, lovely and resilient, who was always with me during this journey.

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I want to thank Mr. Chudamani Parajuli, and Mr. Nityananda Sharma, author of the film *Buhran*, for their support and hospitality during my field visits in Bardiya, and Dang respectively. My acknowledgment goes to Ram Kaji Khadka, Prem Khadka, Govinda Thapa, Ramu Poudel, Amit Chaudhari, Ekraj Chaudhari, and Prakash Thapa for their roles in making the connection with the participants and assisting me during my fieldwork. I sincerely appreciate Ms. Sharin Francis whose suggestions and feedback during the process, as well as editing the entire dissertation, were remarkable. I also would like to thank my colleague Mr. Andrew Young for his valuable time to go through the draft and provide constructive feedback. I appreciate my friends Dr. Cathie Witty and Dr. Lila B. Karki for their helpful feedback as well. I would also like to add a special

Table of Contents

List of Tables

List of Figures

Abstract

This research explores the indigenous conflict resolution processes practiced by the

Tharu community living in Nepal's Bara, Dang and Bardiya districts, the role of Tharu

traditions and customs, and the function of the *Barghar-Mukhiya*. Due to geographic and

monetary challenges experienced by the Tharu accessing Nepal's formal justice system,

they continue to serve as a viable and vibrant vehicle for resolving minor and major

conflicts at the community level and form the basis of researcher's *Barghar-Mukhiya*

model. Shaped by Tharu collectivist culture and traditions, it supports the social fabric of

the community. Utilizing qualitative case study methodology, this research assesses

important aspects of the *Barghar-Mukhiya* model, processes and impact. Primary data

sources include individual and focus group interviews, and researcher observations; and,

secondary sources include document collections and archival material. Research findings

explore six emergent themes: Rituals/Festivals, Inclusion/Dialogue, Identity/Security,

Structure/*Barghar-Mukhiya*, Process/Reconciliation Processes and Participation

/Acceptance. This model is assessed for strengths and challenges. Where it is practiced, it

continues to help maintain community harmony and peace. The model's core of

restorative practices, forgiveness, reconciliation, consensus-based decision-making, and

use of dialogue circles is instrumental in transforming conflicts. This research contributes

to the field of peace and conflict studies, providing analysis of an indigenous model that

strives to reach a balance between traditional beliefs and the modern judicial system.

Chapter 1: Introduction to the Study

A *Barghar* (in *Bardiya*) or a *Mukhiya* (in Bara) are the leaders of the villages of the Tharu communities of the Terai region of Nepal. The Tharu were the inhabitants of the Terai between the *Mahabharata* ranges and Indian plains, which used to be dense forest and no man's land. Due to the Malaria epidemic, neither the rulers of the South nor of the hills were interested in the area. The Tharu are scattered in the southern plain areas of Nepal and on the Indian side in the bordering cities. According to D.N. Majumdar 'Thar' means 'a jungle" in the tribal dialect (Majumdar, 1944). The Tharu people used to live in the forest; therefore, they were known as forest men. Some scholars believe that Tharu migrated from the 'Thar' a desert of Rajasthan, India (Chaudhari, 2011; Majumdar, 1944; Sharma, 2013).

Background of the Study

The Tharu people are an indigenous group inhabiting the Terai of Nepal. They represent 6.6% (1.7 million) of Nepal's total population (Nepal Central Bureau, 2011). Although they comprise the second largest indigenous community of Nepal (Dahit, 2009, p.2; Nepal Central Bureau, 2011), Tharu have been in the margins for centuries. Many scholars believe that the Tharu are the aboriginal people of the region, but there is no clear research about their origin (Singh, 2006). They are spread from the eastern zone, Mechi, to the far-western zone, Mahakali, in the Nepalese southern plain region called Terai. Tharu mostly live in Jhapa, Morang, Sunsari, Saptari, Bara, Parsa, Chitwan, Rupendehi, Kapilvastu, Dang, Banke, Bardiya, Kailali and Kanchanpur districts. There are also several sub-groups within the Tharu population with variations in language, dialect, culture and religion (Dahit, 2009, p. 29-37). Tharu also live in Nepal's Bhitri

Madhesh (Inner Terai) such as Udayapur and Surkhet districts (Dahit, 2009, p. XIII, Gunaratne, 2002, pp.26-27). This study examines Tharu communities in Bara, Dang, and Bardiya districts.

According to the Nepal Census of 2011, the main profession of the people of Bara, Dang and Bardiya is farming. Tharu are the most populous group in Dang and Bardiya districts, but third largest group in Bara (Nepal Central Bureau, 2013). Tharu's main occupation has been agriculture by tradition. Most of the Tharu cultivate or work for landlords. Farming, *Bethbegari-*free labor offered as community service and *Barghar-Mukhiya* tradition and customs are interrelated; they work together to sustain the village governance. Due to the low flat malaria epidemic land, the land of Tharu (*Tharuhat*) has been ignored for centuries. After the eradication of malaria the economic potential of the Terai was explored. Now Terai is the most populated and the most fertile region in the country.

Figure 1. Nepal's District Map *Note*. Marketwatch

The *Barghar-Mukhiya* model is a system of customary laws, traditions, and conflict resolution practices of Tharu community of Nepal. It has received less attention than formal, top-down systems, but its continued usefulness warrants closer examination.

The purpose of the study was to investigate unwritten Tharu traditions and customs, traditional restorative justice and reconciliation practices, and experiences learned and transferred from generation to generation by village elders (Melton, 2005). The study argues that the model continues to be an important mechanism for maintaining community bonds and group integrity, restoring harmony and unity among members of the community and resolving interpersonal and inter-group conflicts (Dahit, pp.160-182, 112-128). The study explains how the community manages conflicts and maintains indigenous institutions, rituals, ceremonies, and practices. Key institutions include village chiefs-*Barghar, Mukhiya and Matwan*, festivals, and rituals that have been in practice for many centuries. The model requires that conflicts or problems be handled in their entirety, focusing on restoring relationships and communal harmony (Ibid).

The goal of the study was to understand the roles of the indigenous justice and conflict resolution model in maintaining peace and harmony in the Tharu community. Questions can be raised about what types of conflicts are prevalent in the Tharu community and how these conflicts are resolved. Conflicts are normal and unavoidable components of human lives that occur when parties confront each other's incompatible goals. The nature of conflicts can be interpersonal, between groups or mega in size (Galtung, 2010); so approaches to resolving them may vary. Since Tharu and their land are interconnected, most of the conflicts involve access to land ownership and land-based productive resources (Upreti, 2009, p.111). In addition, other conflicts that occur are mostly about private and group issues, such as marriage, rape, assaults and thefts (Ibid). Conflicts range from the *Ghardhuriya* level (households) to inter-villages and *Antar-Samuha-* inter-groups levels and the Tharu indigenous model addresses them all.

Attending to the human needs of security, identity, self-determination and quality of life are the challenges of the Tharu community. Tharu have historically been excluded from mainstream political systems (Upreti, 2009, pp.206-7). So, one of the most pragmatic and viable options to deal with these conflicts is the indigenous approach. This study examines the nature and causes of routine conflicts in Tharu community as well. Conflicts between landlords and tenant farmers or between males and females are all typical kinds of conflicts in the Tharu village (Gunaratne, 2002).

The formal justice system of Nepal is a top-down system that favors elites and the powerful. In Nepal, traditional and indigenous systems and values are largely ignored and neglected, while the formal justice system dominates. As a result, the Tharu community's indigenous system of conflict resolution has been threatened. However, despite the widespread practice of discrimination against indigenous groups, including Tharu, there are reasons that some aspects of their customary practices still persist (Roy, 2005, p.13). The *Barghar-Mukhiya* model is a local, community-based, inexpensive and speedy process for resolving local conflicts.

It is difficult for indigenous communities like the Tharu to access justice from the formal court system because courts are far from the communities where they live. There are 75 District Courts and 8 High Courts and one Supreme Court in the Formal system. The Courts are located at the district headquarters or big cities, which are far from the remote villages. Moreover, Tharu cannot afford lawyers and other court-related expenses, since the majority of them live below the poverty line. Traditionally, indigenous groups, including Tharu, have used their own indigenous model for dealing with their own conflicts. During the armed conflict period of the Nepalese Civil War,

(1996-2006), local governmental agencies were dysfunctional. Nepal Communist Party (Maoists) and the Government were the combatants in the armed conflict. Maoists wanted to destroy the courts and, at the same time, traditional systems. *Khyala* members, *Matwans*, *Barghars*, and *Mukhiyas* frequently received threats from both parties of the armed conflict (*OHCHR* report 2008). Despite the continued attacks, the *Barghar-Mukhiya* model survived. People have trusted its traditional approaches and preserved those from extermination.

Many indigenous models and their practices have vanished or face extinction (Bhattachan, 2002). Since the armed conflict, acceptance of the Tharu conflict resolution model has been decreasing because of the influence of modernization and westernization in their culture and community. In addition, the influences of *Madheshi* (immigrated from India in the plain area of Nepal) and *Pahadiya* (People of Hill origins) cultures have attacked Tharu cultures, so they are facing a double social and cultural invasion (Sigdel, 2012). Considering its long history and intrinsic practice in the community, the *Barghar-Mukhiya* model has been under-researched. Therefore, it is urgent to explore the modality of the process.

This case study examines the *Barghar-Mukhiya* model practiced in the Bara, Dang and Bardiya districts of Nepal as a focused and bounded phenomenon embedded in its context. The researcher conducted an exploratory and qualitative study into the Tharu's own practices of reconciliation, healing, restorative justice and rituals to explore whether the practices are still significant for the community. For this case study there are three components of data collection: (1) semi-structured one-on-one interviews (total 38 participants) and focus groups (total of 30 participants), (2) researcher observations, and

(3) a collection of documents and archival material. Focus groups were conducted in Sapahi, Bara District and in Basgadhi, Bardiya District with Tharu community leaders who could not or would not have participated in one-on-one semi-structured interviews.

The researcher observed the participants' cultures, interactions, and conversations, as well as Tharu traditions, celebrations, festivals, and rituals. Also observed were the Tharu people's interpersonal conflict dynamics, and roles of women and elderly in the family, the community and within the decision-making process of the *Barghar-Mukhiya* model. The researcher collected archival documents and materials about Tharu culture and traditions relating to the *Barghar-Mukhiya* model found in Tharu houses. In order to draw a conclusion, triangulation was applied to confirm the research data and outcomes by collecting and analyzing multiple sources of data, which are from interviews, observations, and analysis of documents and archives.

Statement of the Research Problem

According to 2011 Nepal Census the majority of Tharu are Hindus. Buddhists are the second largest, followed by Nature worshipers (Nepal Central Bureau, 2011). Their deep culture and religious heritage are valuable assets of Nepal. Unfortunately, their cultures are in transition and their indigenous, conflict resolution model is in crisis. The Tharu community has greatly contributed to shaping Nepal, but in return they have continually been excluded, discriminated against, isolated, humiliated, marginalized and neglected by the *Brahmin-Kshatriyas* dominant political structure for centuries (Bhattachan, 2002; Dahit, 2009). Patwaris (*Pahadiya* the tax collectors) were sent to Terai to control the land system there by former governments; later they became big landlords. They were mostly Hindu Brahmins. Some Hindus from India also started to

migrate into Terai after the Malaria eradication in the 1950s. Since then the power of *Chaudhari* (original tax collectors who were from Tharu) has been replaced by *Pahadiya* patwari in the plain region of Nepal.

Despite the fact that the formal legal systems, even the government of Nepal, do not recognize and give it a legitimate status, this model is competent to resolve most local conflicts in their entirety and take care of all Tharu's local governance in terms of providing village leadership, planning and development, preserving culture and maintaining peace and stability (Dahit, 2009). The model is not a recent phenomenon; it has been successful in maintaining social harmony and providing justice to the community for centuries. Yet, the model is in crisis now because the well-established conflict resolution model has been attacked by some internal and external powers. Internally, poverty, lack of education, and superstitious beliefs are detrimental to the community. Externally, government, *Pahadiya* (people who migrated from Hill) and Indian migration are making members of the Tharu community vulnerable to discrimination and exploitation. Although they still inhabit the Terai, many Tharu have had ownership of their lands and territories confiscated by these settlers (Skar, 1999). A Backward Society Education (BASE) survey claims that "every bonded laborer in far-west Nepal is Tharu and that approximately 97% of the landlords are Brahmins, Kshatriyas or Thakuris" (Cox 1990, p. 11). According to McDonough (1984), "where in the 1912 revenue settlement most of the landlords were Tharu, by the late 1960s... the great majority of landlords were *Pahadiya* (hill migrants)" (1984, p. X). Moreover, around 90 percent of land cultivated by Tharu tenants belonged to *Pahadiya*-Hills people (Gunaratne, 2002). Their cultural identity and survival are inextricably related to their

ancestral territories, and their lands and resources (Baranyi & Weitzner, 2006, p. 7). The conflict between *Patwari-Pahadiya Jimindar* (landlords) and Tharu *Kisan* (farmers) are common types of conflicts in the community. Since most of the Tharu were illiterate and did not know the real value of their land, clever people of hills made false promises and slowly captured ownership of the fertile land of the Tharu by charging unnecessary interest rate in cash and in kind in the type of loan the hill people used to provide.

Nepal is currently in a negative peace stage (Galtung, 2010). Negative peace is a situation of ceasefire, whereas positive peace is an absence of any kinds of violence. Establishment of positive peace in Nepal is a long way off. Ten years of long, armed conflict ended in 2006 after the signing of the Comprehensive Peace Agreement (CPA) between Nepal Communist Party (Maoist) and the Nepalese Government (Seven Party Alliance). During the armed conflict, which began February 13, 1996, and ended November 21, 2006, more than 13,000 lives were lost, more than 100,000 people disappeared, and millions of dollars' worth of property was damaged (von Einsiedel, Malone, & Pradhan, 2012). One of the major causes of the long conflict was that the Nepalese state had been hesitant to address the issue of indigenous nationalities. Thus, indigenous populations, including the research population, Tharu, were heavily involved in the Maoist People's War (Bellamy, 2009; Lawoti, 2012, pp.129-152).

Due to the oppressive system of *Kamaiya* (bonded labor) and *Kamlari* (girls' slavery), a large number of Tharu youths joined the Maoist rebels during the conflict period (1996-2006). Now, even though the *Kamaiya* and *Kamlari* system has been made illegal, it still exists in practice. The Tharu youths in western Terai, mostly in Bardiya, were targeted by both conflict parties-the Nepal Army and Maoist rebellion (Bellamy,

2009). The ethnic inequality and discrimination against indigenous people remain even ten years after the ceasefire (Ibid).

The conflict caused major destruction on the local level, especially in villages. The People's War (*Maoist*) destroyed the collective co-existence of diverse communities, damaging the integrity of historically developed indigenous models and institutions without establishing a sound transitional structure to support inclusion, participation and rule of law (Dahal & Bhatta, 2008). During the armed conflict, local formal governmental institutions, such as Village Development Committees, were destroyed. Meantime, indigenous systems continued to solve people's local problems, even if the government did not recognize them. The indigenous models, however, did not have a constitutional and legal mandate to operate (customary law practice). The Maoists had systematically sought to destroy the local level tradition-based conflict resolution systems (including the *Barghar-Mukhiya* model) and replaced them with their people's courts, but these courts were not accepted. From the inception of Maoist conflict until now, local government has been fragile or has collapsed, so traditional or indigenous conflict resolution mechanisms have been the only option for local Nepalese people. Violence at local levels has disrupted trust-building efforts among the parties of the conflict in Kathmandu (von Einsiedel et al., 2012)

After the ceasefire of the armed conflict in 2006, people expected to have a solid and sound transitional mechanism to sustain peace in Nepal. Victims of war, especially in Dang, Bara and Bardiya districts, were hoping for justice. They wanted to know the whereabouts of their families and relatives, but nothing happened to heal their wounds. It even took nine years to set up the Truth and Reconciliation Commission (TRC) under the

Chairmanship of Surya Kiran Gurung, a renowned lawyer of Nepal (TRC has been formed, 2015). According to Gurung, his focus is on restorative justice - that means restoring the overall justice system, which has been dismantled, creating a situation where people can reconcile and live together in harmony once again. No one knows how long it will take to get justice for victims and their family. Questions can be raised about how to tackle the painful legacy of the past. In the pursuit of immediate healing and reconciliation for post-conflict Nepal, the study of Tharu indigenous conflict resolution model is relevant.

Unfortunately, tragic earthquakes recently struck Nepal. First was an earthquake of 7.8 magnitudes on April 25, 2015, followed by another of 7.5 magnitudes on May 12 of 2015. These destroyed whole historical heritage sites and millions of dollars' worth of entire structures. Worst of all the earthquakes took about nine thousand people's lives (Rafferty, 2015). Many people hope this disaster will be an opportunity to rebuild the quake-ravaged Nepal and at the same time bring immense pressure on the political parties to work toward repairing post-conflict Nepalese society through reconciliation (Ibid).

Indigenous people are demanding for a federal republic type of Government that is inclusive and representative for each ethnic minority group of Nepal, but they have been compelled to remain without local elected representatives for 18 years. The Tharu community has been continually fighting for their own province called *Tharuhat*, but their cause and movement are neglected and their voices have not been heard yet. This is the real challenge for the people of indigenous communities like Tharu. In this context, exploring the indigenous conflict resolution model of Tharu community through case study is absolutely essential.

The unwritten rules enacted by the indigenous Tharu community for centuries have been known as the customary laws by which Tharu community resolve their conflicts within their villages. These laws are based on a common cultural and ethical code that holds its members to binding rules. Communities use this code to resolve disputes, evaluate actions for praise or blame, and impose sanctions against those who violate established village rules.

During the Maoist insurgency period (1996-2006) both parties to the conflict-Nepal Communist Party (NCP Maoist) and then His Majesty's government of Nepal-attacked the Tharu community and its members, especially in Bardiya, and Dang districts in the name of terrorists or supporters of the feudal system. Both the NCP (Maoist) and the government committed violent crimes against humanity, which took place as forced disappearances, torture, murder, and other forms of human rights violations. And 85% of recorded disappearances were people of the Tharu community (*OHCHR* report, 2008).

Current issues for the Tharu people are to fight for recognition of the indigenous model by the Government; to find out the whereabouts the Tharu members who were disappeared during civil war time; and to secure compensation for victims of violent crimes committed during the conflict period. Even though, Tharu have been involved in the peaceful movements for a long time in Nepal. Unfortunately, Tharu became violent in Tikapur, Western Nepal and more than eight people were killed including the head of Police of the region (Chaudhary & Budhair, 2015). The Government has established the Tikapur Investigation Committee but finding the truth and addressing the causes of the conflict are yet to come.

Many NGOS and European countries have been supporting the autonomy of indigenous groups or Federalism along ethnic lines, but the people of Nepal through the second Constituent Assembly (CA) election rejected that agenda because Nepal has been a country of unity within diversity for centuries. However, achieving stability depends on political parties finding common ground by hearing the voices of all people, including Tharu. The successful inclusion of *Barghar-Mukhiya* model will be valuable to the integrity of the peace process of Nepal.

The Tharu traditional model urgently needs to be preserved in order to strengthen the tribes' roles and reinforce the shared values and beliefs of the Tharu community. This researcher felt a tremendous sense of urgency to preserve the decaying indigenous model for generations to come. A better understanding of the value of the Tharu's traditions-based systems of conflict resolution motivated the researcher. The researcher investigated the roles of elders, women, youths, religion, culture, and the caste system in the Tharu indigenous model and examined the *Barghar* and *Mukhiya*'s decision-making process and its impact on Tharu and non-Tharu communities.

Background of the Conflicts and Causes

Conflicts in the Tharu community are being impacted by economic, religious, historical, political, psycho-cultural and demographic factors. Analysis of the following factors helped the researcher to understand the conflicts, their context and the function of the model.

Economic Factors

Terai, the most fertile land in Nepal, makes up 23 out of 75 districts of Nepal. So the Tharu and Madheshi people feel that they should benefit economically from using the

existing resources of Terai. In addition, people of Terai region, including the Tharu, are resentful of people who migrated from all over the hilly area since the 1970s and 1980s. Hill people purchased land and many houses of Tharu and became richer and richer, whereas the indigenous people of Terai, Tharu, are still in the same impoverished economic condition. It was found that the governing administration during that time did not treat the groups equally, which is the root cause of present dissatisfaction. The conflict between landlords and poor Tharu is apparent because of incompatible goals and interests of the conflicting parties. The Landlords wanted to maximize their income and the poor Tharu wanted to resist that to protect their own economic interests, which are fulfilling Tharu's basic needs.

Religious Factors

According to the 2011 Nepal Census 81.3% of Nepalese are Hindus, 9.0 % are Buddhists, 4.4% are Muslims, 3.1% are Kirats (Indigenous religion), 1.42% are Christians, and 0.9% follow other religions or no religion (Nepal Central Bureau, 2011). According to the 2001 Nepal Census 87.63% of Tharu people were Hindus where 13.95% were Buddhists (Nepal Central Bureau, 2001). Most of the people, whether they are from *Madheshi,* Tharu or *Pahadiya* communities, are Hindu, though minorities of them are Christian, Muslim or Buddhist. Under several monarchies, Nepal was officially a Hindu state and the king was considered a symbol of God, Vishnu. Until Nepalese Constituent Assembly abolished the monarchy in May 28, 2008 the king was able to get along during his regime through the influence of religion.

Political Factors

The United Democratic Madheshi Front is an alliance of three Terai-based political parties (Sadbhavana Party, Tarai-Madhesh Loktantrik Party and Madheshi Jana Adhikar Forum, Nepal), which started their demands peacefully. Now, the Maoist party is part of the mainstream political process and their position about the *Madhesh* issue has changed. The Nepal government has also followed the same policy that late king Mahendra BirBikram Shah had introduced in Terai, where the government used to encourage rural Hill people to migrate into Terai, to make it a more inclusive society. However, Tharu people felt and still believe the Hill and the Indian migrants confiscated their homeland. Nepal's major political parties disagreed with separate *Madhesh* (a state for people of *Madhesh*) and *Tharuhat* (a state for Tharu) stating that these demands threatened the National integrity and sovereignty of Nepal (Lawoti, 2012, pp. 129-152).

Nowadays, Nepal's Terai is in turmoil due to the strike launched by *Madhesh* based political parties. Following the constitution declaration, some small political parties of *Madhesh* (Terai) scaled up their agitation for a separate *Madhesh*. Major political parties believed that India has backed the *Madhesh*, along with trade and transit embargo in Nepal. The government is holding a dialogue with the agitating parties about the side effect of their demands and implications in the longer term for the rest of the country. Since, India has yet to welcome Nepal's new constitution; Nepal's political leaders are having a tough time with solving the current crisis. It is recommended that Terai's issues should be addressed as early as possible and formal talks with India should start with creating a friendly environment between the two countries, which have historical ties and similar culture and beliefs.

Historical Factors

Since the unification of Nepal in 1768, and more so after the *Sugauli* Treaty of 1815 and 1860 with British-India, *Madheshi* people, including Tharu, were considered as a minority group. Until the 1940s, *Madheshi* people, including Tharu, were required to have an entry permit to visit Kathmandu, the capital city of Nepal. *Madhesh* remained an internal colony ruled by the *Khas* from 1768 to 1951, but the oppression and suppression continued until 2006 by the ruling political parties. Nepali politicians ignored the contributions made by *Madheshi* people, including Tharu, during the 1990 People's Movement for democracy called Jana Andolan I.

The second People's Movement (Popular Movement Second-Jan Andolan II) started in 2006 and the *Madheshi* people contributed enormously, but Nepali politicians did not accept this. On February 7, 2007, seven political parties and the Maoists signed an agreement to make sure *Madheshi* people, including Tharu, have adequate representation in the Constituent Assembly of Nepal.

On November 2007, *Madheshi* parties actively participated in the first Constituent Assembly election and won significant numbers of seats, joining the government and bringing the violence in Terai to a stop. However, after the election of the second Constituent Assembly in 2013, Terai-based political parties marched in a protest demanding a separate *Madheshi* state again because they were no longer in power and wanted to attract grassroots support from their voters. Nonetheless, major political parties declared the constitution on September 20, 2015, without addressing *Madheshi and Tharu* demands for a separate state. In the aftermath of this constitution's declaration, *Madheshi* political parties have been intensifying protests near the borders between India

and Nepal to blockade goods from India, creating massive difficulties for the Nepalese people. As a result, India-Nepal relations are in turmoil.

Psycho-Cultural Factors

The Nepalese State has been maintaining that Nepal is a homogenous country, recognizing only Nepali as its one official language, only the Hindu religion, and only one caste, *Brahmin – Kshatriyas* high caste. But the reality is the opposite because, in fact, Nepal is a multi-cultural, multi-ethnic, multi-religious country (Lawoti, 2012, p.130). Indigenous people are demanding the recognition and preservation of indigenous knowledge and practices of indigenous people, including those of the Tharu. The *Madheshi* and *Pahadiya* have their own distinct beliefs, and culture, with the *Madheshi* culture closer to that of North India. The *Madheshi* people prefer Indian films and music to Nepali films and music. *Khas* is an ethnic group that consists of *Pahadiya, Brahmins,* and *Kshatriyas*, and these are the dominant groups. *Madheshi* people feel that the State has imposed Nepali, the language of the *Khas,* on them through schooling and state structure. Because of that, all other ethnic groups have been forced to learn the Nepali language. Therefore, some *Madheshi* parties advocate for establishing Hindi and some other regional languages as an official language for them. *Pahadiyas* think that Hindi is an Indian language and it should not be the official language since it is not the *Madheshi'*s native language, which is a kind of identity conflict between two groups. The Tharu community believes that legal recognition by Nepal's government would help them to preserve the Tharu indigenous conflict resolution model (Chaudhary, 2011).

Demographic Factors

According to the 2011 Nepal Census Nepal's total population is 26,494504. The Census report suggests Terai occupies 17% of the total area of Nepal and has 51% of the Nepalese Population. In Terai, 22% people are *Madheshi*, including Tharu, while 29% are Non-Madheshi, i.e. people from hills migrated to Terai. Tharu is the largest group in Dang and Bardiya and third largest in Bara research site. According to 2011 Nepal Census in Bara, all caste populations (including untouchables) are 687,708, Muslims, 89,834, Yadav 72,253 and Tharu 71,993. In Dang, all Castes people are 552,583;Tharu 163,116; Chhetri 137,672; and Magar 75,131. Tharu are largest group in Dang. Similarly, in Bardiya total population of all castes is 426,576, Tharu are 226,089, and Kshatriyas are 48,835.

Yet, the *Khas* people also known, as *Pahadiya*, are dominant groups in major political parties. Women (from all castes and ethnicities) and *Dalits* (untouchables, the lowest caste) are discriminated against. *Dalits (Musahar, Dom, Dusad, Kami, Damai etc.,)* are considered untouchables under Hindu philosophy; they live in Hills as well as Terai including *Tharuhat* and comprise 16% of the population. Muslims are in the minority, although 96% of Muslims population lives in Terai and only 4% of them live in the Hills and Mountains. Minority *Pahadiya* had dominant power and role in Terai before the violent conflict broke out.

Research Questions

In order to achieve the goal outlined above, the study expected to answer the following research questions:

1. What are the model's working processes?

2. How do the decisions of *Barghars-Mukhiyas* impact the Tharu community?

3. How do the decisions of *Barghars-Mukhiyas* impact the non-Tharu community?

4. How does their model relate to the local formal justice system?

5. Does their model adapt to changing modern needs?

6. What roles do gender, age, caste system, and religion play in maintaining their model?

Glossary of Terms

Model Positions, Titles

Aghawa. In Dang who takes care of the whole village. He/she is responsible for resolving disputes, as well as for planning and development.

Barghar. A village chief who is responsible for overseeing judicial, administrative, development and planning duties. The person in this role is known as *Mukhiya* in eastern Terai, and as *Bhalamansa* in Kailali and Kanchanpur districts.

Pradhan Pancha. An elected chief of Village (*Panchayat*) during the Panchayat regime.

Sachiwa. A secretary who takes minutes of the meeting. *Sachiwa* is also called *Lekhandariya*.

Chaukidar. A watchman or a messenger, who is responsible for calling meetings in the village.

Deshbandhya Guruwa. Topmost *Guruwa* who takes care of villages' medical and shaman work throughout the region.

Gharguruwa. The priest who performs chanting when *Ghardhuriya* requires.

Ghardhuriya. A male head of the household is called *Ghardhuriya*.

Ghardhuriyan. A female head of the household or wife of *Ghardhuriya* is called *Ghardhurian*.

Guruwa. A Tharu priest who performs puja, rituals and shaman works.

Kesauka. An assistant of *Ghargururwa*.

Matwan. The cultural and religious guardian of a village in Danga district. This is a hereditary position.

Ward Chair. Ward Chair is the one of the heads of 9 Wards in Village Development Committee (VDC).

Mukhiya. A traditional Village Chief who is appointed in eastern Terai including Bara.

Patwari. Tax collector, historically appointed by Shah rulers.

Processes, Rituals, and Celebrations

Pati Baithana. *Pati Baithana* is a ritual where *Guruwa* invokes the gods and requests them to cure the sick person.

Panchayati. A traditional decision-making process led by five wise persons and elderly people mostly practiced all over Nepal. Usually in eastern Terai-Bara, the term is used for any meeting of the villagers.

Gamala Panchayati. The general meeting of the villagers in Bara is called *Gamala Panchayati*, in which all villagers participate including children and women.

Khayla. Name for general meeting of the whole village in Dang district.

Jutela. Name for general meeting of the villagers in Bardiya district.

Boxi (witchcraft. A custom where women get blamed for being knowledgeable of bad spirit or mantras, which is illegal and considered violence against women in Nepal.

Shamans. Shamans are the faith healers who use mantras to protect people from evil eyes, witches and ghosts.

Organizations, Peoples and Places

Tharu Kalyankarini Sabha. Oldest ethnic organization in Nepal. Established by Tharu in 1949.

Tharuhat. Tharu's motherland in Terai of Nepal, where Tharu people have been living since time immemorial.

Madhesh. The southern plain region of Nepal is called Madhesh and people who live in that region are known as Madheshi.

Terai. Terai is another name for Madhesh. It is the flat region bordering India.

Hill. One of the regions of Nepal, which falls in between Terai and Himalayas.

Mountain.The Himalaya region, which extends into China on the north, and into India to the east and west.

Backward Education Society (BASE). A not for a profit organization working to uplift the Tharu people in western part of Terai. Its founder president was Mr. Dilli Bahadur Chaudhari.

Bhuinyar. Deity temple of *Dangaura Tharu* in Dang

<div align="center">**Scope of the Study**</div>

This study examines the experiences of *Barghar-Mukhiya* leaders of the Tharu community of Bara, Dang and Bardiya districts regarding indigenous conflict resolution model only. The study is bounded by the time between February 2015 and February

2016, during which the researcher interviewed 68 Tharu interview and focus group participants, including six *Tharu* members of the Constituent Assembly (CA). Non-Tharu were excluded from the study, as well as those under the age of 18 years because they are not of legal age. The goal of the research was to get in-depth experiences of *Barghar-Mukhiya* of three districts of Nepal. Thus, sub-groups of Tharu in the remaining parts of the country were also excluded. Furthermore, due to the limitations of time and geography, the researcher made a decision to exclude all other Tharu sub-groups and non-Tharu from the study.

The researcher recognizes that his personal values may have influenced issues related to the research, from the choice of the research topic to the writing of the dissertation. The researcher's bias and his pro-Tharu views may be influential in the research outcome. In order to ensure the fairness and impartiality of the study, the researcher was mindful of his potential biases during the interviewing and data analysis process. Thus, triangulation method was used to validate the data collected from three different sources such as one-on-one interview and focus group, document reviews and the researcher's observations.

<div align="center">**Overview of the Dissertation**</div>

The report of the study has been organized into six chapters. Chapter 1 contains the background of the study, statement of the research problem, research questions, definition of the terms, limitations of the study and overview of the dissertation. Chapter 2 deals with a thorough review of literature in the topic areas, beginning with a general description of the target population, its history and demography. Then it discusses some of the shortcomings of the literature available. The theoretical foundations of indigenous

conflict resolution for the study follow this by discussing the processes of the model and its stakeholders, the peacebuilding role of the Tharu indigenous model with reference to festivals and rituals for reconciliation and restorative justice practices.

Chapter 3 describes the research methodology. Topics include an overview of the research methods, research design, rationale for qualitative research, case selection rationale, case study justification, sampling methodology, settings and participant selection process, data collection, management, data sources, data analysis procedures, trustworthiness, ethical considerations, and limitations and challenges of the study. Chapter 4 presents the findings of the study and Chapter 5 discusses and interprets the findings. Chapter 6 discusses the implications of the findings, examines their contribution to the field of Peace and Conflict Studies, and makes recommendations for further study with a conclusion of the entire dissertation.

Chapter 2: Literature Review

The literature review provides context for the research study. There is, however, a gap in the literature about the current status of *Barghar-Mukhiya* model and their processes. The amount of specific information about the indigenous conflict resolution practices is inadequate. The goal of this literature review is to develop a framework for the study and to situate the study within the broader context of related research. In order to accomplish this goal, the researcher organized this chapter into three related sections.

In the first section of the chapter, the researcher has reviewed literature that gives a general description of the target population: its history, language and demography, including background on the social structures of which indigenous conflict resolution processes are a key aspect. The second section discusses some of the shortcomings of this literature, including the failure of these studies to identify adequate theoretical models to guide the research. The focus of the third section of the chapter is on the theoretical foundations of the indigenous conflict resolution model for the study.

General Description of Target Population: History and Demography

Before reviewing other literature available on the *Barghar-Mukhiya* model, the researcher reviewed literature that provided general background about Tharu groups: their culture, history, and demography. This background information is provided in order to create an in-depth understanding of their conflict resolution model.

Nepal is a small country that lies between China to the north and India to the east, west and south. According to Nepal census, 2011, Nepal's total population is 26,494504 (Nepal Central Bureau, 2013). Mount Everest and the birthplace of Buddha have been the

country's pride and its core identifier to the world. It is geographically divided into three regions: Mountain, Hills and Terai (the plain).

Nepal is rich in its biodiversity and cultural diversity. Multi-ethnic, multi-religious and multi-cultural, this country can be seen as a unique mosaic (Diwasa & Bhattarai, 2009, p.4). However, due to the rapid growth of urbanization, modernization, industrialization and other changes, these cultural traditions and specialties are disappearing (Ibid). These trends are also reflected in the researcher's study of the Tharu. Nepal has been dominated by state-centric nationalism throughout 240 (1768-2008) years of the Shah royal dynasty (Lawoti, 2012, p.7). Nonetheless, people-centric nationalism has been on the rise since the restoration of Nepal's multi-party democracy in 1990 (Ibid). In Nepal, 125 castes and indigenous nationalities have been identified and about 123 languages and dialects are still alive (Ibid, Sarwahari, 2012, p.14). Nepal basically falls under the category of high-context, collectivist cultures, in which community values and collective norms are valued over personal choices (LeBaron, 2003). Indigenous groups, including the Tharu, have shaped nationalist movements that seek access to material resources, autonomy for self-governance, and getting equal treatment as Nepali citizens (Lawoti & Hangen, 2013, p.11). Recent movements and debates, based on ethnicity, language, caste, religion and regional identity have dominated contemporary politics and have reshaped the definition of the Nepali state (Ibid, p.5).

The Tharu are the second largest and one of the most important indigenous groups in Nepal. As of 2011, the total population of the Tharu group was 1,737,470 or 6.6 percent of the total population of Nepal (Nepal Central Bureau, 2013). Tharu people comprise many different sub-groups, some sharing a very similar culture within which

there are different sub-cultures (Krauskopff, 1989). Others that live across Terai have some differences in language, culture, and religion. However, the political movements launched by some privileged Tharu for constructing a shared Tharu identity have been successful (Guneratne, 2002, p.198). According to Gunaratne (2002), Tharu identity in Nepal exists on two levels. One is the local level, which is well-established, deeply rooted and structured through intermarriages between Tharu sub-groups. The second one is more fluid, a self-reflexive identity that represents Tharu being in the world, more on national and regional levels (Gunaratne, 2002, p.12)

Tharu themselves claim that they are the "real Nepalese" and the original inhabitants of Nepal, but the traditions about Tharu origins that Tharu recite and remember are not uniform (Majumdar, 1944, p.67). There are three theories about their origins. Considering the Tharu facial features, one theory is that Tharu came from Mongoloid stock (Ibid). According to D.N. Majumdar, Tharu are Mongoloid people, who succeeded in assimilating non-mongoloid features (Majumdar, 1944, p.71). They are thought to have come from Mongolia via the Himalayan route in the seventh century and settled down in Terai. The second theory of Rajput origins claims that Tharu were originated from the Rajasthan area of India as part of the Rajput (Majumdar, 1944). Rana Tharu of western Terai of Nepal and India claim they are Rajput descendants. They believe that after the Muslims attacked and killed the Rajput kings, their surviving wives came to Nepal with their servants and eventually married with them. In order to prove this claim, they point to their tradition of matrilineal supremacy in a household (Ibid). The third theory of Tharu origins holds that Tharu originated from the holy city of

Banaras in North India and they are the descendants of Lord Gautama Buddha (Dahit, 2009; Gunaratne, 2002, p.154-156; Singh, 2006).

Two main and culturally contrasted Tharu groups, Danguara, and Rana, live in Western and far western Terai. Another Tharu sub-group, Katharya, mostly live in India and in Kailali district (Krauskopff, 2005). Danguara Tharu live in Dang, Banke and Bardiya districts. Tharu also live in Bengal, Bihar, Utar Pradesh and Orissa states in India (Majumdar, 1944, p. 10). The research's target population is Dangaura Tharu of Dang and Bardiya and the Kochila Tharu of Bara District.

The research site Bara district is between Rautahat to the east, Parsa to the west, Chure Hill to the north, and India to the south. Dang research site is surrounded by Banke to the west, Pyuthan, Rolpa and Salyan to the north, Arghakhachhi and Kapilwasthu to the east and India to the south. Bardiya site is surrounded by Banke to the east, Kailali to the west, Surkhet to the north, and India to the south. Tharu, who live in Bara, have a population of 71,993, (35,735 males and 36,258 females (Nepal Central Bureau, 2011). Bara's Tharu speak Bhojpuri language and are mostly poor and uneducated, making it very hard for them to understand the official language Nepali and the formal justice system. However, they do know how to resolve their own issues and problems at the community level. The annual festival *Maghi* is important and it is similar to all other Tharu groups of Nepal. Dang's Tharu population is 163,116, of which 79,015 are males and 84,101 are females. They speak the Tharu language. In Bardiya, the total Tharu population is 226,089, of which 109,960 are males and 116,129 are females. Tharu are the majority group in Dang and Bardiya districts (Nepal Central Bureau, 2013, district level detail report).

Some argue that the Tharu community is not a caste but a tribe (Guneratne, 2002; United Nations (UN) report, 2013). However, the Nepali state has classified all of them as one caste group. A core part of Tharu identity is being one of the ancient, indigenous groups in Terai. Tharu is the only indigenous group in Terai who are genetically immune to malaria (Majumdar, 1944). Before 1950, Malaria was a huge threat in Terai, so people of India and Hill of Nepal avoided migrating or even traveling there. But when malaria was eliminated in 1950, people from both places started to settle in the Terai (Ibid), taking over much of the land occupied by Tharu. As a result, many in the Tharu community became bonded laborers for a long time. Today the systems of *Kamaiya* (bonded labor) and *Kamlari* (indentured domestic girl laborers) have been declared illegal. However, restoring land ownership and reconciliation of Tharu laborers remain the unfinished work of Nepal's government and a conflict that needs to be resolved (Bellamy, 2009).

Indigenous groups, including Tharu, have their own traditional socio-cultural systems for dealing with their conflicts. The Tharu traditional village chief is known as *Barghar* in Bardiya. Village chief of Dang is called *Matwan*. *Mukhiya* is the name for the village chief in Bara District. Other names for village chief include *Kalandar* in Deukhuri and Bhalamansha in Kailali (Chaudhari, Aug. 2, 2011, "Voice of Tharu"). This research will focus on the *Barghar-Mukhiya* indigenous model.

Scarcity of Recent Literature on Tharu Conflict Resolution Model

There is some literature available on Tharu who live in western Terai, including those in the Bardiya district (Chaudhary, 2011). Famously known as the Nepalese father of anthropology, Dor Bahadur Bista (1967) in his book, *People of Nepal*, mentioned

Nepal's Tharu. However, the book is a general account of people of Nepal, and the chapter on Tharu was not an adequate and detailed account (Bista, 1967, pp. 118-127). Dron Pd. Rajaure (1981) investigated the *Dangaura* Tharu' economy, rites of passage, festivals and some village rituals, specifically customs of tattooing, child rearing and status of women (Rajaure, 1981, 1982; Krauskopff, p. 198). Dron P. Rajaure is the first scholar who gave a detailed empirical study on the Dang district, where *Dangaura* Tharu live. Also, C. McDonough's studies on *Dangaura* Tharu were about social organizations, rituals, Dang Tharu culture, and gave more emphasis to kinship relationships (Ibid). Rishikesab Raj Regmi (2003) outlined the classical Tharu origin controversy and described the *Kochila* Tharu customs on house building, fishing, agriculture, social organization (that and *gotra*, marriage regulations and rituals), religious practices (Dhami village rituals and healing practices) and rites of passage (Krauskopff, 1989). Ashok Tharu (2007) studies Tharu folklore, history, art, and philosophy. He has focused on *Gurbabak Jarmauti*, *phulwar* (garden), and Tharu folk Ramayan (Tharu, 2007). Similarly, Nepal Folklore Society has conducted a study on folklore and folk life of Dang's Tharu (Diwasa & Bhattarai, 2009). According to Gunaratne, eastern Tharu share cultural symbols with other *Madheshi* residents in their languages, dress, rituals and living in multicaste villages (Gunaratne, 2002, p.46).

Nepali scholar and former Attorney-General of Nepal, Mr. Ramananda Prasad Singh, and his son, Nepali author Subodha Kumar Singh, believe that Tharu are the descendants of Emperor Asoka the Great and Lord Buddha (Singh, 2006). Ramananda Prasad Singh argues that the kings of Banaras were the Tharu's ancestors (Krauskopff, 2000); Singh, 2006). They were divided into two clans known as *Sakyas* and *Kolyas* and

settled in the woods around Kapilavastu. T.N. Panjiyar further explored stories that Tharu

settled down around the Kapilvastu and they were descendants of Lord Buddha

(Krauskopff & Meyer, 2000). Only a few elite Tharu support these arguments. In

Chitwan, Tharu claim they are descendants of Rajput (Gunaratne, 2002, p.155). The

Nepalese state has classified them as the *Vaishya* caste, touchable, *matwali*, or alcohol

drinkers. But Subodha Kumar Singh believes that Tharu are tribal people that were

influenced by Hindu religion (Singh, 2006). Whether Tharu people should be identified

as a caste or a tribe is still a controversial subject. If one identifies Tharu as a caste, they

can be traced to Hinduism; but if one identifies them as a tribe, their roots can be traced

to Buddhism. It is important to know about caste here. Castes are ethnic groups within a

single society whose relations are guided by a particular ideology of purity and pollution

(Gunaratne, 2002, p.37). This concept is a result of Hindu philosophy. Based on Hindu

philosophy, the state has defined indigenous groups, including Tharu, within Hindu

society (Singh, 2006). If we evaluate Tharu culture, they have a tradition of tribes and

indigenous people. They used to be the followers of Buddhism at the time of Asoka the

Great (Ibid). Maslak (2003)'s study suggests most of the Tharu identify themselves as

Hindu in the religious sense and Tharu as ethnic sense (Maslak, 2003, pp. 148-164).

Because this study focuses on the indigenous conflict resolution model of Tharu dealing

with their conflicts, the researcher will be concentrating on the conflict resolution

mechanism of Tharu in Bara, Dang and Bardiya Districts of Nepal. In terms of their

religion, culture and appearances, Tharu are different from *Madheshi* who also live in

Terai. Tharu have *Mongoloid* features rather than *Aryan* (Ibid).

A problem explored by Bellamy is that the current governmental system at the local level has been neglecting the positions and functions of *Barghar-Mukhiyas* (Tharu leaders) in the villages (Bellamy, 2009). These leaders are not as well respected as they deserve by the government, and are even harassed. While the *Kochila* sub-group of Tharu model is under-researched, some scholars have researched Bardiya's Tharu cultures and their traditions. They suggest the *Barghar* model that is mostly practiced in western Terai, is the traditional model derived from many years and generations of experience (Ibid). This model not only deals with village development activities, but administrative, cultural, and judicial functions (Ibid). This institution is responsible for maintaining social justice in the Tharu villages. The *Barghar*, whose position is the equivalent of *Mukhiya* in Bara, appoints others to carry out key functions. The *Chaukidar* is responsible for calling meetings and maintaining smooth communication between *Barghar-Mukhiya* and the villagers. The *Guruwa* is responsible for treating sick or injured people using indigenous knowledge, medicine and mantra; the *Keshauka* assists The *Ghar Guruwa*. The *Chirakiya* is responsible for lighting lamps in the *Deuthan* (deity place).

According to Lisa Schirch rituals such as dance, music, food and greetings are critical to forming and transforming the relationships between the conflicting parties. She further states rituals have the power to transform conflicts, identity and relationships (Schirch, 2005). In *Barghar-Mukhiya* model, most of the reconciliation and reunion process takes place during the celebrations of *Maghi*, *Faguwa* (*Holi)* and other rituals and festivals. One of the goals of *Barghar-Mukhiya* model is to bring family and community together through festival and rituals.

According to Fred-Mensah, the goal of the indigenous conflict resolution is to bring the conflicting parties together to rebuild their relationships, smoothing collective action for mutually beneficial gains (Fred-Mensah, in Zartman, 2000). And as William Zartman (2000) states, the traditional methods of conflict management, as well as modern methods, have some strengths and shortcomings. As he noted, traditional approaches have contributed to maintaining stability and commonality in African societies. He further claimed that "the universal characteristics of conflict management measures, such as negotiation, mediation and arbitration, were invented in Africa that have become part of the universal human repertoire for dealing with conflicts" (Zartman, 2000, pp. 229-230).

Habermas, a renowned contemporary philosopher, is known for his theory of *communicative action*, in which actors in society seek to reach common understanding and coordinate their actions via argument giving reasons, and achieving mutual consensus and cooperation, rather than *strategic action* strictly in pursuit of their own goals (Habermas, 1984, p. 86). This model provides a space for inclusion and participation. Everyone involves, participates and takes responsibility for resolving conflicts with collective harmony in mind.

Theoretical Foundations

A few guiding theories were examined and reviewed to complete this study. The researcher sought to explain the conflict dynamics and ways of resolving the conflicts within Nepal's Tharu community and beyond. The following theories are applied in this research to analyze the Tharu case and collected data: Human Needs, Marxism, Social Cubism and Indigenous Worldviews.

Theory of Basic Human Needs

Human needs theory advocates for identification of people's basic human needs and the necessity of meeting them for maintaining peace and harmony in the community. This theory is that until and unless people's human needs are properly met, conflicts cannot be transformed or resolved. Basic human needs theory (Burton, 1987, 1990; Maslow, 1943) is one of the most important Peace and Conflict Studies theories, which claims that every human person has rights of fulfilling certain basic needs. When these are not met, conflict occurs.

According to Maslow (1943) people are motivated to achieve fundamental needs. His *hierarchy of needs* includes psychological, safety, love and social, self-esteem and self-actualization. According to Maslow, human desires to fill their needs, which is an ongoing process. Human beings pursue fulfillment of their needs going step-by- step up the hierarchy. In fact John Burton (1990) expands on Maslow and focuses on identity and security needs.

John Burton categorizes universal basic human needs as identity, recognition, and security (Burton, 1990) and emphasizes that human needs must be met for people to avoid conflict (Reimer, et. al, 2015). When these needs are not met, people struggle with each other. He distinguishes needs from interests and values. According to Burton, needs are universal while values are cultural. Burton highlights that needs may change in a period of time. He further argues that human beings will do anything in their capacity to satisfy their needs. Fulfillment of basic human needs and bringing social harmony in a community are interrelated concepts.

Johan Galtung, who is the pioneer of peace and conflict studies, further expands basic human needs theory to include not only security and identity, but also welfare and freedom needs. According to Galtung, when these needs are not met, ethnic conflicts occur (Galtung, 1990b, p, 312). By identifying welfare and freedoms as basic human needs, Galtung went beyond Maslow and Burton with social justice implications.

This theory is applicable to the study because the Tharu people's basic needs such as their identity, socio-economic, political and other needs are not being met. Despite its success in effectively resolving many local conflicts, the Tharu indigenous conflict resolution model has not been recognized yet. According to the theory of human needs, Nepal's government should thoroughly carry out the intention of the new constitution to address genuine demands of Tharu and other indigenous groups of Nepal who faced discrimination in the past. Tharu have historically faced discrimination by the upper-caste Brahmin and Kshatriyas, as well as the Government. Their dignity and self-esteem have been undermined which, according to the theory, impacts their needs for identity, recognition and security. Tharu people believe that if their political, economic and social needs are met, they will be motivated to contribute their skills and strengths for the national development. Moreover, when these needs are addressed, the relationship between the parties to the conflicts could improve and there would be a communal harmony between two groups and respect for each other.

"Human needs are the foundations of existence and the building blocks of effective conflict resolution" (Weeks, 1994, p. 145). Parties to the conflict need to hear each other's needs and find out that they are common for both. These common needs are shared needs that are the connecting point that holds the relationship of both parties.

Agreeing on shared needs and coming up with an agreement, will help both parties to strengthen and improve the relationship between the Tharu and *Pahadiya* groups.

Marxism Theory

According to Marx, private property, motivation for maximization of profit at any cost, and the necessary result of competition as the accumulation of capital in a few hands will eventually create two classes, the property owners, and the property-less workers; in other words 'have' and 'have-not' classes (Marx, 1844, "Estranged Labor"). The product of labor is that it has been embodied in an object, which has become a material that is an objectification of labor. The law of political economy expresses the alienation of the worker, as the more the worker produces, the less he has to consume; the more value he creates, the more valueless, the more unworthy he becomes, the more civilized his object, the more barbarous becomes the worker.

This theory applies to Tharu community because the majority of Tharu are laborers; they work as bonded (*kamaiya*) laborers, as girl slaves (*Kamlari*) and as tenants. The powerful *Patwari* (previously appointed as tax collectors.) and other *Pahadiya* landlords confiscated Tharu's ancestral lands and other properties. They work their entire lives for the landlords, but still remain proletarian with a significant amount of debt.

According to Marx, the history of all hitherto existing society is the history of class struggles. With the invention of private property, classes emerged. The modern bourgeois society has two clear antagonist classes: bourgeois and proletariat (Love, 2010, pp. 292-318). From this perspective, the struggle between Tharu farmers and Patwari landlords are due to their incompatible goals.

Marx's interpretation of class struggle applies to the Tharu community because Tharu have often been subject to exploitation by the rich *Patwari* from Hills, *Baji* businesspersons from India, and even by Tharu landlords throughout history. Given that there is a clear class divide in the Tharu community, this theory helps the researcher to analyze the usefulness of the model from economic and political viewpoints.

Social Cubism Model

Sean Byrne and Neal Carter developed the social cubism model, which aimed to interact with distinct conflict resolution mechanisms (Byrne & Carter, 2002). Social cubism model helps to analyze a particular conflict holistically by describing the factors such as history, religion, psycho cultural, politics, economics, and demographics (Byrne, 2009; Byrne & Keashly, 2002). These six facets of ethnopolitical conflicts cover the complex interaction of material and psychological factors of the *Tharu vs*. *Khas* dominated Government conflict. Studying all these factors will help to explain how the context of current ethnic interactions between the Tharu, *Madheshi* and the *Pahadiya* Brahmins and Kshatriyas has formed, and why this conflict is so deeply rooted and protracted. The model assists the researcher to explain the case of Tharu holistically.

The model is applicable in the study to analyze the conflicts dealt with by Tharu indigenous conflict resolution model in reference to its historical, political, cultural, and religious, demographic and economic factors. A great strength of the Social Cubism Model is that it is a dynamic and innovative way of conflict resolution that analyzes the magnitudes and the relationships of the conflict parties to contribute in a meaningful conflict transformation and the establishment of positive peace in the community (Reimer, et, al, 2015).

Indigenous Worldviews

Indigenous worldviews and traditional models are also applicable to analyze the Tharu community and their indigenous conflict resolution practices. Tradition-based models of conflict resolution have been practiced for centuries and are still popular among indigenous communities because these practices are local and based on familiar customs deeply rooted in their traditions and cultures. The formal justice mechanisms in countries like Nepal are out of reach for ordinary people because these are more expensive, inaccessible, and much more bureaucratic. In contrast, tradition- based practices have their own historical context. These are more accessible to the ordinary people because they are less expensive, speedier and mediators and negotiators are more knowledgeable about the parties and issues involved (Dahal & Bhatta, 2008).

Indigenous conflict resolution mechanisms have long been in practice in Africa, Asia, and South America. Furthermore, tribal models have existed in North America and Australia since time immemorial. The norms, values, traditions and rules developed by indigenous populations are known as customary law and regulate the conduct or behavior of members of the society. In war-ridden countries, traditional justice mechanisms and philosophies, such as Magamba spirits (Mozambique) Ubuntu (South Africa), Kayo Cuk, Ailuc, Tonu ci Koka, CuloKwor, MatoOput (Uganda), Jirga (Afghanistan & Pakistan), Gacaca (Rwanda), Sulha (Iraq) and others, have been useful (Huyse & Salter, 2008, p.1). For example, in the aftermath of the 1994 Rwandan Genocide, the role of transitional justice and reconciliation efforts was in the policy spotlight (Alie, 2008; Barfield, 2011; Chopra, Ranheim, & Nixon, 2011). Thus, Rwanda's new government reformed their traditional Gacaca so as to modernize and apply it in repairing the post-genocide society

(Ibid, p. III). The United Nations and other international organizations have been criticized for focusing their entire efforts on the rule of law initiatives in post- war countries of Asia and Africa for decades. Critics say they are tirelessly intent on destroying the customary justice systems and replacing them with a rule of law and the formal justice system (Ibid, Asfura-Heim, 2011).

According to Isser, the rule of law practitioners have been facing three major challenges: addressing practices that violate human rights, strengthening the effectiveness of customary justice systems and promoting constructive linkages between the formal and the customary system (Isser, 2011). Similarly, in Nepal, there are numerous challenges to bridging the gaps between the official justice system and indigenous justice traditions in Tharu communities. Peace and Conflict Studies are expanding the knowledge base to include indigenous perspectives of both west and east. And those provided through research include and advance the voices of indigenous people directly (Reimer, et al., 2015). Researching the indigenous perspective of the eastern hemisphere is urgently needed.

The indigenous justice models are largely free and voluntary, and the cultural practices and rituals give the community members a sense of identity (Volker, 2011). Most of the Meta conflicts are generally ritually resolved and traditional approaches have changing nature (Nkwi, 2014). Community members act as witnesses; it is an experiential learning opportunity for members of the community, focused on the welfare of family and the entire community (Volker, 2011). The traditional approaches of conflict resolution focus on social harmony and cohesion (Murithi, 2006). Yet, major challenges for the indigenous conflict resolution practices are posed by its lack of a clear and written

structure for coordinating all the processes. The agreements reached by parties are verbal and practices will not be readily acceptable and accessible to neighboring communities and villages (Volker, 2011).

The traditional approaches are holistic, comprising social, economic, cultural and religious-spiritual dimensions. Conflict parties can negotiate with each other, or third party mediators can be involved to transform the conflict. A customary conflict transformation process targets problems at the community level, but translating traditional approaches from local to the national and global level can be difficult to achieve (Ibid). Traditional approaches are not state-centric but people-centric (Ibid). To a great extent, these approaches lack legitimacy from the state because the government has not yet recognized the indigenous models.

Chapter 3: Research Method

Overview of Methodology

This chapter outlines the methodology used to investigate the phenomenon of the Tharu indigenous conflict resolution model. Specifically, the purpose of the study is to investigate the conflict resolution model of the Tharu community known as the *Barghar-Mukhiya* model, thus contributing to the most holistic understanding of the model. In this chapter, a rationale for the selection of the qualitative research, case study methodology, and case selection is presented, along with site selection, and sampling method. The data collection, management, and analysis procedures used are described and the approach to ensuring the trustworthiness of the study is discussed. The final section of the chapter reviews the ethical challenges and sensitive issues addressed including: protecting the anonymity of the research sites, providing confidentiality for the subjects in the study, and establishing and maintaining the trust of the participants.

Six specific research questions guided this study:

1. What are the model's working processes?

2. How do the decisions of *Barghars-Mukhiyas* impact the Tharu community?

3. How do the decisions of *Barghars-Mukhiyas* impact the non-Tharu community?

4. How does their model relate to the local formal justice system?

5. How does their model adapt to changing modern needs?

6. What roles do gender, age, caste system, and religion play in maintaining their model?

Rationale for Qualitative Research

Productive exploration of the complex *Barghar-Mukhiya* model calls for the rich, holistic description provided through qualitative research. Though bounded in time and geographic setting, the phenomenon being studied can best be understood through detailed accounts of its cultural and historical context. The advantage of qualitative research is that it describes and documents the process being explored within its natural environment.

In pursuit of overall meaning, qualitative researchers "are interested in how different people make sense of their lives" (Bogdan & Biklen, 1992, p.7) or more specifically, how they experience the phenomenon/situation under study. In this sense, qualitative research seeks to elicit the views of people in the study about the phenomenon and how they live in the situation that is being studied. Authentic interpretation of the role and value of the model must grow from multiple perspectives gained through firsthand accounts and observations in a particular context and time range.

Social constructivist worldviews of Mertens (2010) and Lincoln and Guba (2000) believe that the goal of the qualitative researcher is to rely on or understand as much as possible of the participants' views on issues and situations (Creswell, 2007, p. 20). The researcher believes that participants can construct meanings from situations that arise from interaction with other community members (Ibid). Since social norms, culture, religion, and indigenous practices are socially constructed, the researcher wanted to explore how the Tharu people understand conflict resolution. The researcher sought to understand and refine the Tharu's conflict resolution model through case study research (Ibid, at 73).

Case Selection Rationale

This research used a single case, holistic study design (Yin, 2013). The case was defined as a single Tharu indigenous conflict resolution model comprised of 68 participants from Bara, Dang, and Bardiya districts. The data were analyzed by using a holistic analysis of the Tharu case (Creswell, 2013). Initially, the researcher selected the specific case under investigation in this study because he had developed an interest in the indigenous community and their model during his two decades living and working with them in Bara district. The resilience of their conflict resolution practice is impressive, yet very little research has been done about the model used by the *Kochila* Tharu in the district of Bara. Possibly due to barriers posed by language, geography, and widespread illiteracy, this population has received scant attention from the academic community in recent years. Finding more general research about the *Dangaura* Tharu of Dang and Bardiya, the researcher sought to elaborate on available information through further exploration of their model used in these three districts.

On the national front, the Tharu have gotten attention in the news as one of the groups protesting their perceived marginalization and lack of recognition. But these accounts lack a nuanced depiction of the Tharu people and their intrinsic approach to conflict resolution. Therefore, the researcher sought to bridge the current literature gap by investigating the processes of the model and more fully elucidating the model to the broader community.

Therefore, the researcher decided to investigate the indigenous conflict resolution model of Tharu of Bara, Dang, and Bardiya districts through a bounded case study that focused on this phenomenon embedded in its context (Miles & Huberman, 1994). To

enrich and verify this single case study, the researcher aimed to collect extensive and detailed data from multiple sources of information (Creswell, 2013, p.100). The emphasis has been on a specific case study of the indigenous conflict resolution model of Tharu of Bara, Dang, and Bardiya districts, a focused and bounded phenomenon embedded in its context (Miles & Huberman, 1994). Creswell recommends using up to six types of data for a case study, and for this study three components of data were collected: semi-structured interviews and focus groups, non-participant observations, and a collection of documents and archival material (Creswell, 2013, p. 100).

Due to the limited research foundation on this area of research, an important goal of the study was to provide a detailed description of Tharu's indigenous approaches to conflict resolution. The researcher chose qualitative case study methodology for its potential to find aspects of the phenomenon previously undiscovered by more narrow data collection instruments. Exploring the Tharu indigenous conflict resolution in the broader context was essential to understanding the experience of stakeholders, processes and the overall impact of the *Barghar-Mukhiya's* decision making on the entire community. A qualitative exploratory case study methodology was applied to conduct an in-depth study of a bounded system of the indigenous conflict resolution model of Tharu community.

Case Study Justification

A case study is "an examination of a specific phenomenon such as a program, an event, a person, a process, an institution, or a social group" (Merriam, 1998). The Tharu community is a social group and the researcher intended to research the process of their indigenous model. Therefore, the qualitative exploratory case study method is appropriate

because the model has not been adequately assessed. As Merriam (1998) suggests, case study needs to be applied where thick data sources, such as interviews, observations, and analysis of documents, can be gathered. The case study employs descriptive analysis to "develop conceptual categories, and to challenge the theoretical assumptions" and approaches that the researcher believes are important to fully understand the Tharu's conflict resolution model (Merriam, 1998).

In utilizing case study, this dissertation closely follows Yin's (2013) definition of an exploratory single case study with embedded units of analysis. According to Creswell (2007), case study is a good approach if the researcher has a clearly identifiable case or cases with boundaries and seeks to understand the case or for comparison of several cases. The researcher has selected the case study methodology for three reasons. First, the researcher was motivated by personal interest in exploring the usefulness of an indigenous model of conflict resolution used in his native country. Secondly, it is possible to identify the phenomenon under investigation—*Barghar-Mukhiya's* experiences and process in resolving conflicts. Finally, a case study was an appropriate methodology for this research because it enabled the researcher to use multiple sources of data. These included archival data, as well as, interviews with *Barghar-Mukhiya*, Constituent Assembly (CA) members and local Tharu male and female leaders. Utilizing each of these sources assisted the researcher in the development of what Merriam (1998) describes as a "holistic description and explanation" of participants' experience (Creswell, 2007, p. 29).

Creswell suggests that one of the challenges of case study research is that the researcher must select his/her single case or multiple cases and then decide the bounded

system to study (Creswell, 2007). The rationale of purposeful sampling and the amount of information that should be collected in a case should be determined ahead of time. Deciding the boundaries of the cases may be challenging because there may be limitations in terms of time, events, systems and its processes (Ibid, at 76). Based on Creswell's suggestion, the researcher identified geographical boundaries of the case as Bara, Dang, and Bardiya districts. The timeline of the fieldwork (data collection) and analysis was February 2015 to February 2016.

Sampling Methodology

The researcher chose to collect extensive details and multiple perspectives about the Tharu' indigenous conflict resolution model, *Barghar-Mukhiya*, from three sites because the Tharu people are scattered from east to west in the Terai regions. These three sites were selected because they are in districts that represent the entire Tharu ethnic community of Nepal. Bara District in the eastern part of the Terai includes *Kochila* Tharu. Dang is in the central area and Bardiya is located in western Terai.

Qualitative case study methods included: semi-structured interviews with individuals and with focus groups, researcher observation, and analysis of documents and archival records. For the interviews and focus groups, purposive sampling methods aimed to include participants who met certain criteria and were representative of the target population, the Tharu people. All 56 male and 12 female participants were at least 18 years of age, the legal voting age in Nepal, and of the Tharu ethnic group. The key informants chosen for interviewing included those who had been *Barghar-Mukhiya* for at least a year, elderly *Matwans*, *Barghars*, and *Mukhiyas*, members of Tharu women's organizations and leaders of other local Tharu institutions living in Bara, Dang and

Bardiya districts, including those elected to the Constituent Assembly (CA.) Because this study only focused on the perspectives of Tharu leaders, all non-Tharu were excluded from the sample.

First Sample	Second Sample	Third Sample
One-on-one Interviews with *Barghar-Mukhiya* leaders or other Tharu leaders	One-on-one Interviews with Tharu elected members of the Constituent Assembly (CA)	Open-ended focus group discussions among *Barghar-Mukhiya* leaders or other leaders of the Tharu Community
32 Barghar-Mukhiya or other Tharu Leaders from Bara, Dang and Bardiya Districts	5 CA members & 1 Treasurer of TKS participated one-on-one interviews in Kathmandu	30 participants who participated in focus groups from Bara and Bardiya Districts

Figure 2. Study Samples

Interview data was collected through three sets of the sample from qualified participants. The first sample was from one-on-one interviews with *Barghar-Mukhiya* leaders or other Tharu leaders who live in Bara, Dang or Bardiya Districts of Nepal and took place in their respective communities. The second sample was from one-on-one interviews with Tharu elected members of the Constituent Assembly (CA) of Nepal. Whenever possible, leaders selected for one-on-one interviews were those considered more confident and less hesitant about sharing their views, due to having more education and experience. A total of 38 participants participated in these individual interviews. The third sample came from 30 participants who participated in focus groups, open-ended group discussions, among *Barghar-Mukhiya* leaders or other leaders of the Tharu community who live in the Bara or Bardiya Districts. As Robson argues, focus group

interviews are a highly efficient technique for qualitative data collection because rich data can be collected from several people at the same time (Robson, 2002). Two focus groups, held in the Districts of Bara and Bardiya, were offered to those who could not participate in individual interviews. Also, the group setting was more suitable for hearing from village leaders who might feel hesitant or shy in one-on-one interviews but felt comfortable enough to speak in a group setting (Creswell, 2007).

Collection and Management of the Data

Data collection and analysis took place over a twelve-month period, from February 2015 to February 2016. An interviewing protocol was followed for all the semi-structured interviews. This included gaining permission from the subjects, approval through the Nova University's IRB and obtaining access to literature or information archives, audiovisuals, etc. The researcher exercised care to collect and protect data accurately and systematically throughout the duration of the study. The researcher stored the data in a structured, organized format, and in a safe location to ensure its protection from damage.

Recruitment of Participants and Collection of the Data

In qualitative research, contact persons, or gatekeepers, are often used to assist the researcher in gaining access to and developing trust with the community of study (Hatch, 2002). The gatekeepers reach out to individuals who meet the criteria and ask them if they would be interested in participating in the study. Being an insider, the researcher had the advantage of direct, personal contact with some leaders in villages of Bara, Dang, and Bardiya, who helped recruit key informants for individual interviews and focus groups in

those areas. The following three gatekeepers were chosen and each recruited participants from their respective district.

1. Ramkaji, a community organizer of Sapahi, Bara

2. Ashok, a Tharu scholar and community leader of Hekuli, Dang

3. Akraj, the Chairman of Guruwa FM Radio Station of Basgadhi, Bardiya

After the researcher arrived in Kathmandu, he scheduled an orientation meeting with the gatekeepers to discuss recruitment criteria and other details. Although they would be present during many of the interviews, the gatekeepers were instructed to refrain from influencing what participants said. This served to further minimize potential influence by gatekeepers. The researcher used the purposive snowball sampling method in which initial contacts help to locate additional potential participants (Creswell, 2013).

Logistics of Collecting the Data

Next came the scheduling of interviews with participants, assisted by the gatekeepers. The interviews with *Barghar-Mukhiyas* began in Bara district, moving next to Dang and finally Bardiya districts. The interviews were scheduled for a day, time and location convenient for all the participants. Since most of the Tharu research subjects work in the daytime, the interviews were conducted during their afternoon break starting from 12.00 PM -2.00 PM local time or in the evenings after they finished their work. Wishing to conduct interviews in a comfortable environment, the researcher arranged for them to be held at participants' homes, public offices or other public places convenient for participants (such as a local schoolroom or Village Development Committee [VDC] Offices). Constituent Assembly (CA) members' interviews were scheduled last to coincide with the researcher's return to Kathmandu. CA members' interviews were

conducted in each respective CA member's office located in Kathmandu, the capital city. Whenever possible, the researcher paid special attention that these places would be quiet and free from distractions (Creswell, 2007).

The second step was for the researcher to conduct interviews and lead the open-ended, focus group discussions, in the Nepali and Bhojpuri languages. The interviewer usually accompanies a gatekeeper. Their role is to provide linguistic and cultural interpretation. Because the researcher fluently speaks both Nepali and Bhojpuri, proper and accurate interpretation was ensured. All interviews were tape-recorded. During this process, the researcher used the questions that had been developed for the semi-structured interviews and followed interviewing protocol based on (McIntyre's) recommended guidelines, as follow. All participants must be allowed to engage fully and express their ideas without fear and hesitation. Decisions of people to not participate in the research project must be respected. It should be perfectly okay if participants do not want to share their stories and do not want to answer the questions asked. Development of the work must remain visible and open to suggestions from others. Permission must be obtained before making observations or examining documents produced for other purposes. Descriptions of others' work and points of view must be negotiated with those concerned before being published. The researcher must accept responsibility for maintaining confidentiality and privacy, minimizing risks, and preventing exposure to danger (McIntyre, 2008 p. 12).

Interview/Focus Group details

One-on-one interview. One -on- one structured interview format was the primary tool of data collection to closely examine people's experiences. Each semi-structured 90-

minute individual interview was conducted following the Interview Guide (*Please see*

Appendix A & B). These interviews were conducted with a total of 38 key informants, of

which there were 4 females and 34 males. Participants reflected some diversity by age,

location, organizational affiliation, and socioeconomic status. Yet, the sample also shows

that women's participation in the model is very low.

Table 1

One-on-one Interview Participants

Title	Sites/Place of Interview	Male		Female		Total participants
		Coding Number	Participants	Coding Number	Participants	
Mukhiya	Bara	P# 1-P# 8 P# 10-P# 17	16	P# 9	1	17
Matwan	Dang	P# 18-P#19	2	0	0	2
Barghar	Bardiya	P # 20-P# 29 P# 31	11	P#30	1	12
Guruwa	Bardiya	P# 32	1	0	0	1
Treasurer TKS	Kathmandu	P# 33	1	0	0	1
CA Members	Kathmandu	P # 34-P #36	3	P # 37-P# 38	2	5

There were 17 interviews conducted in Bara with Tharu *Mukhiya* and Tharu

leaders who have substantial experience working with the indigenous model. Also, 15

interviews were conducted in Dang and Bardiya and 6 interviews were taken in

Kathmandu with Constituent Assembly (CA) members and the Treasurer of *Tharu*

Kalyankarini Sabha. The researcher is fluent in Nepali and Bhojpuri languages, so was

able to conduct the interviews in Nepali or Bhojpuri, as appropriate.

Semi-structured, open-ended focus group interviews were conducted to learn the participants' multiple perspectives of the model and its impact on the Tharu and non-Tharu villagers who had gone through the process of the *Barghar-Mukhiya* model. Focus group interviews were conducted in Sapahi of Bara district and *Basgadhi* of Bardiya district with a total of 30 (8 females) Tharu community leaders who did not participate in a one-on-one interview.

At each interview site, the researcher began with the informed consent process, which included explaining to the interviewees the purpose of the study and the researcher's plan for future use of interview results. Then participants completed and signed the consent forms. The Interview Guide consisted of 29 questions relating to participants' demographics, their perceptions and experiences about the *Barghar-Mukhiya* model, Tharu restorative practices, conflict resolution processes and their views on the court or law enforcement agencies (see the Interview Guide and script in Appendixes A & B). The Interview Guide includes several primary questions that the researcher asked each participant and several sub-questions or prompts that could be explored, depending on the participant's response. The researcher audio recorded these interviews to enhance the accuracy of the data capture. In addition to completing the interview questions, following the guidelines and finishing the interviews within the specified time, the researcher was also taking interview notes.

Focus groups. Focus group interviews were conducted in Sapahi of Bara district and Basgadhi of Bardiya district with a total of 30 (8 females) Tharu community leaders who did not participate in a one-on-one interview. The researcher had chosen the focus group format because it is a highly efficient technique for qualitative data collection from

several people at the same time. The researcher conducted open-ended group discussions, each of which lasted about four hours. An interview guide was followed using the same questions that were asked of participants in a one-on-one interview. The focus groups were held in the open space of the yard of one of the participants. As customary for village meetings, all participants were seated on the floor covered by a traditional handcrafted carpet in an area easily accessed by villagers.

At each focus group site, the researcher began with the informed consent process, which included explaining to the interviewees the purpose of the study and the researcher's plan for future use of interview results. Then participants completed and signed the consent forms. The same Interview Guide consisted of 29 questions relating to participants' demographics, their perceptions and experiences about the *Barghar-Mukhiya* model was used for focus group discussion as well.

Table 2

Focus Group Participants

Title	Sites	Participants		
		Male	Female	Total
Mukhiya	Bara	10	3	13
Barghar	Bardiya	12	5	17
Total		22	8	30

Researcher Observations

The researcher spent 38 hours observing eight different kinds of meetings, festivals and rituals to understand how the model operates in the community and how Tharu leaders regard it. Observations included a meeting of Tharu Kalyankari Sabha

(Tharu Welfare Council), Maghi (New Year), Gamala (Community meeting of Bara) and other rituals.

The researcher observed participants' culture, traditions, celebrations, festivals and rituals, their interactions and conversations, interpersonal conflict dynamics, women's roles in family and community, and elders' roles within the decision making process of the model. The researcher also observed political protests in Bara launched by Terai-based political parties with Tharu members during the constitution promulgation period (September 20, 2015). This observation supports the Tharu identity, security and self-governance needs.

Table 3

Researcher Observations

Event	Location	Purpose	Time
Gamala meeting	Bara	Observe Mukhiyas	4 hours
Tharu Kalyankarini Sabha office meeting	Kathmandu	Observe function of Tharu umbrella organization	4 hours
Maghi celebration	Bardiya	Observe festival's role in conflict resolution	5 hours
Achhat Herna/ Pati Baithana rituals	Dang	Observe ritual's role in conflict resolution	5 hours
Mother's Group meeting	Bara	Observe domestic and community roles	5 hours
Faguwa (Festival of Colors)	Bara	Observe festival's role in conflict resolution	5 hours

table continues

Mathwa Puja ritual	Bara	Observe ritual's role in conflict resolution	5 hours
Gurai ritual	Bardiya	Observe ritual's role in conflict resolution	5 hours

The observations were conducted from February 2015 to February 2016.The gatekeepers who contacted interview participants also arranged for the researcher to access various meeting sites for direct observation. As a non-participant, the researcher was able to attend and record information about the decision-making process of the *Barghar-Mukhiya* model. This helped the researcher to observe more closely how Tharu people interact regarding interpersonal conflict dynamics and to examine the roles of women, the elderly and others within the decision-making process of *Barghar-Mukhiya* model. This included details about various aspects, such as women's roles in the family and community, Tharu people's interpersonal conflict dynamics, and the roles of women and elderly within the decision-making process of the *Barghar-Mukhiya* model. Tharu community meetings and forums were observed, including *Gamala* of Bara and Mother's group meetings. This helped the researcher to add to the multiple first-hand perspectives on the *Barghar-Mukhiya* model of conflict resolution. In addition, researcher observation of Tharu's traditions, celebrations, festivals, rituals, etc. made it possible to confirm much of the data collected elsewhere. However, the researcher also had the role of an insider researcher through being familiar with the Tharu community and participating in some of the activities. At all times the researcher was polite and respectful of their cultures and processes, greeting them as culturally appropriate and thanking the gatekeepers and participants when exiting the sites. During the data collection period, the researcher

observed the festivals, traditions and rituals of Tharu community, preparing descriptive

and reflective field notes after the observation was conducted (Creswell, 2007, p.134).

Through these notes, the researcher portrayed the informants, the physical settings of

particular events and activities and his own reflections (Creswell, 2013, p. 167).

Documents and Archives Review

Table 4

Archival Documents Review

	Document Reviewed	Purpose	Number of Page(s)
1.	Nepalka Rajaharu and Teraika Tharuharu (Kings of Nepal and Tharu of Terai), ed. 2000, by Tek Bahadur Shrestha,	Royal Stamps (Lalmohar, decrees) describe State relations to the Tharu.	210
2.	Tharu Loksahitya, Itihash, Kala Ra Darsan (Tharu History, Art and Philosophy) 2007, by Ashok Tharu	Tharu history and philosophy	355
3.	Film "Burhan", 2006, Written by Nityananda Sharma Produced by Ajit Lamichhane	Matwan village governance model and Dang Tharu's socio-economic, historic, psychology, political and religious background	Two hours length
4.	Tharu Indigenous Knowledge and Practices: A Comparative Analysis with Social Inclusion and Exclusion Theory by Gopal Dahit, 2009	Tharu indigenous knowledge	247
5.	Tharu Folklore and Folklife, Project Director, Tulasi Diwasa, edited by Tulasi Diwasa, Govinda Raj Bhattarai, 2009. Nepal Folklore Society	Reflects Tharu culture, social institutions, religions and others	247

The researcher collected and analyzed by visiting in person the archive documents and archival materials about Tharu culture and traditions relating to the *Barghar-Mukhiya* model practiced in three research sites. More than 1,059 pages of documents, books, and government records, and one film were reviewed.

According to guidelines for exploratory and qualitative case study methodology, documents and audiovisual materials can also be useful sources of data (Creswell, 2013). The researcher sought to draw upon documents and audiovisual materials as sources of data. The researcher collected archival documents and other materials about Tharu culture and traditions relating to the *Barghar-Mukhiya* model. The researcher's primary purpose in reviewing documents was to supplement and compare them with the information gathered through interviews and observations. Specifically, the researcher extensively reviewed documents related to the Tharu indigenous model of conflict resolution to determine where they fit into the emerging themes found in the one-on-one-interviews and focus groups. The triangulation of data allowed the researcher to present a rich, detailed description of the Tharu conflict resolution model and added support to the study conclusions.

Through the gatekeepers and personal contacts, the researcher gained access to study materials after obtaining verbal permission. The researcher collected records located in the Tharu houses and villages. Some elders had kept documents and archival material about their culture and tradition of village governance in their homes. When available, files included dates of meetings, agendas, and minutes from *Gamala* and *Khyala*. Visits were also made to the Tharu *Kalyankarini Sabha* office in Kathmandu, and Bara in order to collect documents and archival materials. Archival records also

included: notes and pictures of physical or cultural artifacts- clothing, crafts, and artwork. These materials were found in the Tharu's houses and villages. Journaling methods were used during this process. Photocopies of those materials were gathered and recorded.

<div align="center">**Data Management and Analysis Procedures**</div>

Three components are discussed below, which fall under data analysis procedures: data management, data analysis, and data presentation. Efficient data management ensures the confidentiality and reliability of the data. Ultimately it helps the researcher to analyze the data systematically.

Data Management

As noted by Creswell (2013), the data managing process includes creating and organizing files, reading, memoing- reading through the text, making margin notes, forming initial codes, describing the case and its context. Accordingly, a continuous process of identifying, storing and organizing data was used during collection of data based at the researcher's site office in Bara District. The researcher's first step toward analysis involved labeling the audio recording of each interview with the respondent's name, gender, age and the date when the interview took place. The labeled interviews were then downloaded and stored electronically in the researcher's password-protected hard drive in a portable computer. Using a headphone, the researcher then transcribed each interview in the original language Nepali or Bhojpuri/Tharu. As necessary, the researcher translated into English all interviews, documents, and archival materials. The process of transcribing allowed the researcher to become better acquainted with the data (Reissman, 1993). Special attention was given to how the collected data should be organized for analytical purposes and stored in the researcher's computer. The researcher

developed a master list of types of information gathered; data were classified as field

notes of observations, transcriptions, and archival materials. When not in use, the

researcher's portable computer, containing audio recordings, transcriptions, and other

research information, was stored in a secured cabinet, along with the audio recorder

equipment. The researcher had designed spreadsheets for organizing data: interviews,

observations, documents, and archival materials.

Data Analysis Procedures

For thematic analysis, researcher followed Braun and Clarke's (2006) step-by-

step guidelines. These steps are: familiarizing with the data, generating initial codes,

reading through each transcript to immerse in the data, defining and naming themes,

reviewing themes, comparing across sites and lastly reporting. Three components of data

sources were combined altogether to develop a final product - the dissertation.

Data analysis in a qualitative case study consists of a detailed description of the

case and the setting (Creswell, 2003) in conjunction with a structured approach to

analyzing results. Initial review of each data source included highlighting the Tharu

indigenous model, its processes, decision makers, and context. The first strategy

researcher used for analysis was working the interview data from the "ground up" (Yin,

2013). Each transcription was carefully read, again and again, line-by-line to make sure it

was in-depth, detailed and accurate. Using open and axial coding (Corbin & Strauss,

2007), the researcher analyzed the data to determine what patterns emerged on their own.

The researcher read the focus group and interview transcripts for important or recurring

words or phrases, made a tentative list of 60 codes, and then coded the transcripts. The

classifying stage included using categorical aggregation to establish themes or patterns.

By sorting the groups for similarity, the researcher assigned each group of words a theme using Atlas.ti, a computer analysis program for qualitative research. From these, the researcher identified 25 categories or sub-themes, which were further combined into 6 themes.

As described more fully below in the section about triangulation, this qualitative, exploratory case study used multiple data sources in order to engender greater confidence in the findings. The researcher ensured that the data from different forms was converged in an attempt to understand the overall case, not the various parts of the case, or the contributing factors that influence the case. In order to support the research themes and propositions outlined earlier, it was necessary to compare the various methods of data collection, including interviews, observations, documents and archival reviews. Therefore, the researcher reviewed the other documents, film and archival records, etc. for how they fit with the themes. When new themes emerged from the documents, physical artifacts or field notes, the transcripts were again examined for those themes before integrating all three forms of the data set into one that described the case in detail.

The interpretation stage involved developing generalizations and identifying possible meanings or explanations. In the final stage, the researcher reviewed the results of the analysis to produce an in-depth picture of the single case defined as the Tharu indigenous conflict resolution model and presented narrative reports with tables and figures (Creswell, 2007, p.156).

During the analysis and interpretation stage, Johnny Saldana's *The Coding Manual for Qualitative Researchers* was used especially for thematic analysis (Saldana, 2013).

Data presentation- Findings

The final piece of data analysis involved presenting and reporting results. Creswell (2007) refers to this phase of data analysis as the "...packaging of what was found in text, tabular, or figure form" (p. 145). Merriam (1998) said, "There is no standard format for reporting case study research" (p. 193). The real issue is to accurately portray the results in such a form as to thoroughly educate the reader on the subject under study (Patton, 1990).

The researcher used a combination of methods to report findings in this study. A narrative format was used to provide the reader with detailed descriptions of the Tharu model, as well as a few representative direct quotations to give the reader access to the perspectives of some participants. The researcher also used tables and figures to enlighten the reader to contextual data. The goal of the researcher was to present a report that is both readable and understandable.

Finally, the researcher wrote a chapter for results and discussion in which the researcher interpreted the results in light of previous studies, the theory of conflict resolution and results from other sources of data collection such as observations, documents, and archival review. Presenting data in figures, tables or a discussion is also critical in this step (Creswell, 2007, p.148).

Trustworthiness and Triangulation

In this qualitative, exploratory case study, triangulation of data sources has been used in order to engender greater confidence in the findings. In gathering data, the researcher employed various methods to converge the evidence of the findings from

multiple sources: interviews, observation, use of archival and official data, as well as previously published research reports and theoretical literature.

Triangulation entails the use of various research procedures, in order to reduce the risk of misinterpretation and to ensure the reliability of the research conducted (Stake, 2006). By employing a process of collecting multiple perceptions to verify the repeatability of observations and interpretations, the researcher clarified meaning by identifying different perspectives regarding the particular phenomenon. Yin (2013) mentions three different types of triangulation, namely: data triangulation that concerns multiple data sources, and theory triangulation entailing different perspectives to the same data set, and methodological triangulation that involves the use of different methods. Stake also discusses that one of the most frequently employed methods of triangulation is a redundancy of data gathering (Stake 2006).

Yin explains that effective case studies involve "data triangulation" where "multiple measures of the same phenomenon" corroborate any conclusions the researcher makes about the data (Yin, 2013, p. 100). Yin asserts that the triangulation of data is one way that the case study researcher can address issues of construct validity. Thus, the researcher has chosen the multiple data source method of triangulation to optimize the utility of the data collected and corroborate the results, given the potential challenges to reliability and validity that may be present. The researcher used various sources of evidence (e.g., archival records, observations, semi-structured interviews, and focus groups) to explore the usefulness of the model in practice. In order to draw conclusions, the researcher examined data collected from three sources of evidence to determine

points of convergence. The researcher also attempted to reconcile data that presented conflicting evidence.

Yin (2013) also sets forth three principles of data collection and analysis for case studies that can be employed by the researcher to enhance the study's validity and reliability. These three principles include using multiple sources of evidence, creating a case study database, and maintaining a chain of evidence. The researcher used each of these principles in order to ensure that the conclusions the researcher made from the data were trustworthy.

Yin (2013) advocates keeping a case study database to allow any external reviewer to examine all the raw data collected in the case. The researcher kept an accurate database on each of the sources that included the actual files and analysis of the interview data. The researcher also recorded and saved field notes and transcriptions from the interviews with participants. Yin asserts that keeping a well-organized and documented case study database "increases markedly the reliability of the entire case study" (Yin, 2013, p. 102).

Finally, the conclusions drawn in this case study were documented following what Yin calls a chain of evidence. By maintaining a chain of evidence, the researcher traced the information from the case study database to the original research questions and the construct it was designed to explore (Yin, 2013, p. 105).

Ethical Considerations

Ethical consideration for the research was taken into account. Prior to conducting interviews with the participants, this research received approval, as required by the Institutional Review Board (*IRB*) of Nova Southeastern University. In compliance with

IRB guidelines and federal regulations, certain procedures have been maintained to provide informed consent and secure the privacy of the participants. All of the participants were treated in accordance with the ethical guidelines of the American Psychological Association (*APA*) and the Nova Southeastern University Institutional Review Board (*IRB*).

It is mandatory that the participants should be informed about all of the aspects of the research study. It is the researcher's responsibility to ensure informed consent to the research participants (Edwards & Mauthner, 2008, p.17). They should be informed about their involvement, the time it will likely take, and then they must be briefed about the research prior to beginning the study. Accordingly, the researcher provided each respondent with a Participant Information Sheet and an opportunity to ask questions, making sure that any concerns about their comfort, safety or security were properly addressed. Participants had the right to withdraw from this study at any time.

The researcher took steps to uphold the ethic of protecting participants or sites from potential harm, and ensuring their privacy by maintaining confidentiality and anonymity were guaranteed (Ibid). The interview data are anonymous; participants did not use identifiers and, except for participant numbers, neither did the researcher. All hard copy and electronic data were stored securely in a locked cabinet that is now stored at the researcher's home and will be destroyed after three years have elapsed in order to protect the anonymity of the participants and the sites. Throughout the interviewing process, the researcher used the following guidelines. All participants must be allowed to engage fully and to express their ideas without fear and hesitation. Decisions of people to not participate in the research project must be respected. It should be perfectly okay if

participants do not want to share their stories and do not want to answer the questions asked. In this and other aspects of the study, the researcher sought to uphold ethical guidelines as described by McIntyre. Development of the work remained visible and open to suggestions from others. Verbal permission was obtained before making observations or examining documents. The researcher took responsibility for maintaining confidentiality, privacy, minimizing risks, and preventing exposure to danger (McIntyre, 2008 p. 12).

Merriam (1998) suggests that the issue of anonymity is often problematic in case study research. She explains that because case study, by its very nature involves "an intensive investigation of a specific phenomenon, it is nearly impossible to protect the identity of either the case or people involved" (Merriam, 1998, p. 217). Despite this challenge, the researcher made every attempt to provide anonymity to the institution that agreed to serve as the research site and to the individuals who agreed to participate in the study. Although there are no identifiable risks for participating in this study, a couple of considerations were kept in mind when dealing with participants. First, the informed consent form approved by *IRB*, Nova Southeastern University, was translated into Nepali and Bhojpuri languages and given to participants before the interviews (Please see Appendixes C, D, E). The researcher made sure that the participants completely understood what was written in the form. Participants were fully informed that they were free to stop the interview any time they wished. They were not being forced to participate and had no obligation or loyalty to participate in the study.

Secondly, there was the possibility that participants might feel uncomfortable discussing their past experiences involving personal disputes or their opinions about the

community. All of the Tharu leaders interviewed talked about their experiences as decision-makers and caretakers of the village. There was the potential that participants might feel the pressure to answer all the questions because the researcher held a position of power. All these considerations were addressed during the research design stage. Every precaution was taken to ensure that all participants felt safe, comfortable, and had the freedom to withdraw from the study.

Possible Challenges/Limitations

Despite not being Tharu, yet familiar with the Tharu community, the researcher would have some advantages to conduct research. Admittedly, because the researcher had not lived in the community for 12 years, the participants may have been more reserved. Yet, as a native of that area of Nepal, the researcher acknowledges that he might have some pro-Tharu biases toward some of the information that was collected. The researcher does firmly believe that local people must have the right of self-determination and local autonomy without dividing the states along ethnic lines. The researcher also believes that indigenous knowledge and practices should be preserved. Terai's political protest and agitations might have posed a concern for the researcher during the fieldwork period; however, the researcher was free from any potential harm to his own physical safety and mental well-being. Also, time constraints might have posed limitations.

Chapter 4: Results

Introduction

The purpose of this qualitative case study was to investigate the Tharu indigenous

conflict resolution model practiced in Bara, Dang and Bardiya districts of Nepal. Known

as the *Barghar-Mukhiya* model, it is used to manage conflicts- interpersonal and between

groups - that arise in the community. As methodology outlined in chapter 3, three major

sources of data were gathered. An Interview Guide (see appendix A) consisting of 29

questions was developed for facilitating the one-on-one and focus group interviews. The

following research questions guided the research:

1. What are the *Barghar-Mukhiya* model's working processes?

2. How do the decisions of *Barghars-Mukhiyas* impact the Tharu community?

3. How do the decisions of *Barghars-Mukhiyas* impact the non-Tharu community?

4. How does their model relate to the local formal justice system?

5. Does their model adapt to changing modern needs?

6. What roles do gender, age, caste system, and religion play in maintaining their

model?

This chapter reports the findings of the research conducted through one-on-one

interviews, focus groups with key informants, analysis of observations and review of

archival documents. The 38 (4 females) one-on-one, semi-structured interview

participants included: 17 *Mukhiyas* (16 males and 1 female) from Bara site, 2 Tharu male

leaders from Dang site, 12 *Barghars* (11 males, and 1 female) and 1 male *Guruwa* from

Bardiya site, 1 male *Tharu Kalyankarinee Sabha* Treasurer, and 5 Tharu members of

Constituent Assembly (CA). The five (5) Tharu Constituent Assembly (CA) members

(out of a total 42 Tharu CA members) available to be interviewed by the researcher included 2 female CA members. CA has since become the nation's Parliament; all CA members are now MPs. Of the two focus groups' 30 total participants, all were Tharu: 13 (3 females and 10 males) were from Bara including *Mukhiyas*, local Tharu leaders, and school teachers, and 17 (5 females and 12 males) from Bardiya sites include *Barghars*, teachers and students at Tribhuvan University doing undergraduate and graduate degrees. The following non-Tharu groups were excluded from the study: *Pahadiya* (people of Hill origin), Muslims, Indian migrants and Dalits (*Mushahar*, *Chamar*, *and Dusad)*. Although, a few roles or positions, such as *Chaukidar*, are held by untouchables, they were also excluded. One of the limitations of the study was the absence of their perspective. The researcher also observed 8 community meetings-festivals-rituals and reviewed 5 archival documents including the only film, which describes commonly occurring conflicts, rituals, structures and process of the *Barghar-Mukhiya* model.

Findings from Interview and Focus Groups

One-on-one Interview

These forms of data came from verbatim transcripts from one-on-one interviews from 38 participants, and field notes prepared by the researcher. Two *Barghars* who had signed up to participate in the study earlier did not show up, saying that both had to go Guleriya (headquarters of Bardiya District) for their personal business. The one-on-one interviews took place outside the homes of the respective participants or in public places. Each interview lasted an average 90 minutes.

The following findings came from same interviews. Interview guide consisted of 29 questions including biographic information and specific main questions relating to the model asked to gain a holistic picture of the model.

Structure of the Model

Barghar or Mukhiya participants responded that they have been working in these roles for at least 5 and as long as 20 years. All one-on-one participants who identified themselves as *Barghar, Mukhiya* or local Tharu leaders said their roles were prestigious, praiseworthy and satisfactory. All interview participants expressed the perception that the *Barghar-Mukhiya* model is based on traditional beliefs and that they are important to the identity of the Tharu community. The ongoing purpose of the model is to build bridges among community members and resolve conflicts. Participants frequently described how the model brings reconciliation among the community members, through processes of festivals and the rituals. Mention of "bring people together" occurred so often that it became a category integral to the theme of organizational structure, as well as other dimensions of the model. The focus is to reach a consensus, if possible, when selecting the leaders, deciding on an issue or any problems arising in the community.

Selection process of Village Chiefs (Executives) and Associates

Tradition and culture are closely associated with this process, as reflected throughout participants' accounts. The established norm in the Tharu village is that a morally sound, competent person should be chosen for *Barghar-Mukhiya,* but traditions are associated with this process. A *Barghar-Mukhiya* is expected to be skillful and tactful in decision-making, an elder expected to pass down village rules, values and processes to successive generations. Two participants at the Dang site responded that the *Matwan*

(Dang equivalent of *Barghar-Mukhiya*) is like the king of the village, one who holds the cultural and religious guardianship during his kingship (A *Matwan* was a cultural and religious authority in Dang and used to be a hereditary position but nowadays it is the same as *Barghar-Mukhiya*).

Designating the *Barghar-Mukhiya* and their associates (*Chaukidar*, *Sachiwa* and others) is part of an annual cycle. All participants reported that if there is only one name being considered, then an attempt at consensus is made by the entire village assembly (called *Gamala* in Bara, *Jutela* in Bardiya and *Khyala* in Dang). But if there are two or more candidates contesting the position, then a consultation of the candidates with leaders and *Barghar-Mukhiyas* takes place to reach consensus. But if consensus can't be reached, then an open voting system (everyone knows how everyone voted) is used to elect the *Barghar*, *Mukhiya*, *Matwan* and other associates. Finally, if voting is not possible or acceptable, then a lottery system is used. Time of year varies for the selection process. In Bardiya and Dang, the selection of *Barghar-Mukhiya* takes place during the second day of *Maghi* (mid-January). In Dang, the *Agahwa* is also selected at this time. In Bara the *Mukhiya* is selected during *Faguwa* (*Holi*) (or New Year, sometime in March-April).

A detailed structure of the model is outlined below as mentioned by the interview participants. In the district of Bara, the *Mukhiya* is the village chief that is in charge of each and every matter in a Tharu village. The *Mukhiya* is appointed at the *Gamala* meeting and is responsible for appointing other village positions to effectively perform administrative, judicial, irrigation and developmental affairs of the village, such as

Gumasta, Sachiwa, and Chaukidar. *Mukhiya* is selected in the festival of *Faguwa* (*holi*), the new year of Bara's Tharu.

The *Barghar* is the chief of the Tharu village council, serving as the highest community authority in Bardiya. He is elected or reelected every year during the festival of *Maghi* in Bardiya; the position can be inherited. This person is ultimately responsible for resolution of every problem of the village and acts as an administrator, legislator and judicial head of the village.

Matwan is village chief of the Dang. He is the cultural and religious guardian of the village. *Chaukidar* is a messenger, a postman who is responsible for notifying all villagers about the meetings. He calls together the parties involved, witnesses and committee members. Usually, *Chaukidar* is very experienced in the conflict resolution skills, so he is able to guide the new *Barghar-Mukhiya* in his/her job. He also sometimes works as security person (Watchman) of the village.

Secretary (*Sachiwa*) is also a position recently created to assist *Barghar-Mukhiya*. *Sachiwa*'s (*Lekhandariya* or Secretary) job is to keep records of *Bethbegari* (free labor to the community), prepare balance sheets, call meetings and take minutes. The *Sachiwa* in coordination with *Barghar* or *Mukhiya* also maintains budget expense and its proper use.

Chirikya is a priest who assists *Guruwa* in ritual. The *Chirikya* lights the flame at the *Bramthan* (a deity place). Tasks of both of them are to perform Puja and other rituals. It is common for people to offer six kilograms of grain to *Chirikya Guruwa*.

The head of the household is called *Ghardhuriya*, who is male in most cases, though a female head of the household is known as the *Ghardhuriyan*. In each family, the head of the household oversees family and social-cultural duties.

Agahwa is the name for leaders of *Ghardhuriyas* (households) in Dang. Roles of *Ghardhuriya* and *Agahwa* are interrelated with each other and support each other's duties. *Guruwa* is the spiritual healer of the village. *Guruwa* usually is a man by tradition and performs rituals and ceremonies.

Gamala, Jutela-Khyala Assembly

Bringing people together face to face for making consensus decisions that directly impact their community is a strong and effective practice at the sites where the research was conducted. Descriptions of conflict resolution, as well as other decision-making processes, were remarkable for their focus on community gatherings. Compared to distant judicial offices at the state or federal level, such meetings are more accessible and transparent. *Gamala Panchayati* is the name for a general meeting of the whole Tharu village in Bara. *Khyala* is the legislative body, which makes rules for the villagers in Dang and it is called *Jutela* meeting in Bardiya. All villagers gather in a certain place, usually the home of the current *Mukhiya-Barghar-Matwan* (village leader), to decide village issues and cases by consensus. People from outside the Tharu *Jat* (castes) are also encouraged to be a part of the *Khyala-Barghar* dialogue process, which usually leads to an acceptable decision reached collectively.

Participant 4. Explained the *Gamala Panchayati* process as follows:

This is a meeting of all villagers. If the village needs a new road construction, how we do it and who are involved, or who is providing their land are discussed in that meeting. If this is a time to plan a puja or rituals for a certain deity, people decide collectively. How much will it cost? What are the food menus? How is the money collected? Donations or levies from each household

are requested. All people from the village will gather to decide on major issues relating to the villagers. When a natural disaster or man created accidents occur, *Gamala Panchayati* will be called.

Roles

Participants expressed their views about the roles of *Barghar-Mukhiya*. Participants responded that the *Bargher-Mukhiyas*, in collaboration with other associates, and with villagers, are responsible for performing administrative, leadership, planning and development, judicial, ritual, unity, and coordination. (These are coded as Administrative, Leadership, Planning and Development, Judicial, Unity, Ritual, and Coordination.) Administrative and leadership duties include the issue of recommendation letters for obtaining citizenship, coordination with community volunteers and government agencies. Planning and development duties include construction of roads, schools, canals, temples etc., irrigation management and other community development projects. The judicial role includes: finding common ground and resolving conflicts.

Participant 35. Explained the *Barghar –Mukhiya's* judicial role as:

Find out who committed the crime or did the mistake and why, how much harm had been done. If it is a minor damage the victim is asked to forgive the wrongdoer. If major damage has been done, then we determine a compensation for the damage. If perpetrator could not afford to pay a monetary compensation, ask him to kill his pig and give a party for all villagers. The decision is made collectively with taking everyone's consent.

Ritual roles include performing the ritual, festivals, and puja to maintain peace and harmony in the village. The *Guruwa*, who takes care of rituals and healing in the

village, is assisted mainly by the *Chaukidar*, who calls meeting. Coordination role includes collaborating with all associates such as *Chaukidar*, Assistant *Barghar, Guruwa, Chirikya, Sachiwa* and formal government agencies in community development and conflict resolution.

On the question of what salary or stipend the village chiefs receive for performing his/her roles, Participant 24 explained, "Two and one-half kilograms of rice will be given to the *Barghar*." *Bethbegari*, or community service, is still in practice, but the practice of free labor to the landlord or *Mukhiya* has been eradicated except in the instances of irrigation and other development projects. In his/her managerial capacity, he/she must sometimes resolve conflicts related to maintaining or utilizing resources, such as land or irrigation, that affect community livelihood. Coordinating free labor (*Bethbegari*) for community service and development is also one of the leadership roles. Looking after the village and taking care of village assets (public land, temple and roads, etc.) also are important functions of *Barghar-Mukhiya*. The households (*Ghardhuriyas)* pay to *Barghar-Mukhiya* in the form of grain wages, known as *Khara*.

Participants related how old people passed down village rules, values and processes to successive generations. As discussed later in relation to identity, some believe the tradition can be traced back to Buddha. References to power were used sometimes in describing the leadership role. Two participants at Dang site said the *Matwan* is like the king of the village, having been entrusted with the cultural and religious guardianship throughout history. At one time, the *Barghar-Mukhiya* decided how conflicts should be resolved, but nowadays the role is mainly that of a facilitator.

Matwan, a cultural and religious authority in Dang, used to be a hereditary position, but nowadays an election practice has been adopted.

Processes of the Model

According to the participants, the goal of the model is to build bridges among community members and to resolve conflicts. The focus is to reach a consensus, if possible, while selecting the leaders or deciding an issue or any problems arising in the community. As participants reflected, collective decision-making process involving a maximum of seven members of the village in a *Samittee* (committee) is one of the greatest strengths of the model. All villagers, not only Tharu but also non-Tharu, participate in the *Gamala - Khyala* community meeting's process. Information and agendas about the issue to be discussed must be sent prior to the meeting through the *Chaukidar*, a messenger man. Members of the Tharu village attend the meeting with enough preparation for the case.

When asked question 15, "What are the model's processes?" all participants' remarks conveyed the idea that love, harmony, and peace are the core values of the *Barghar-Mukhiya* model. The whole community is involved in the process; participants of the meeting engage actively, discuss the matter seriously, and investigate the truth. Participants said that finding a mutually agreeable solution is the main goal of the process. Though parties to the conflict bring their respective biases, the goal of the model is to uphold the principle of impartiality. The tradition is to reach an acceptable compromise for both parties of the conflict.

The basic process begins when an oral complaint is made to the *Agahwa, Barghar, Mukhiya* or any active leader. Next, a meeting is arranged in a public place or in

the residence of the *Mukhiya, Barghar* and *Matwan* to which all parties and witnesses are called. The *Barghar, Mukhiya or Matwan* facilitates the process.

Types of Conflicts

Tharu people do not distinguish conflicts as western people do. Moreover, the Indigenous people define the conflicts in their context, which also differs from the mainstream society of Nepal. However, the researcher has divided the Tharu's conflicts into the following levels to ensure better clarity about the conflicts of Tharu community.

When asked about the types of conflicts included in the model, 95% of total participants responded that they are mostly dealing with minor offenses, i.e., misdemeanors and all civil cases. Major crimes such as murder, rape and robbery must legally be reported to the police department. According to the participants, the sources of conflict are usually about community resources, group or political identity, community security and safety, etc. Two participants from Bardiya site, one from Dang and five from Bara site responded that 90% of conflicts within the village were resolved by *Barghar-Mukhiya* model.

Ghardhuriya Level (Household-intrapersonal)

Ghardhuriya (head of the household) primarily resolves conflicts between family members. Roles and power of each family member are assigned by customs and traditions. If anyone violates the customary rules, roles and duties of the members, conflicts occur. Household property division cases are handled at *Ghardhuriya* level. But if they cannot be resolved at this level, they are taken to the higher *Bargharyia-panchayati* level.

Marriage, divorce, and kinship issues are resolved within the family level. But if they cannot be resolved they are taken to the higher *Bargharyia-panchayati* level. For example, sometimes love marriage (not arranged by parents) requires *Barghar-Mukhiya* to negotiate with the parents of the boys and girls to arrange their wedding. When couples get married, they are supposed to give a gift to the *Barghar*.

Panchayati-Barghariya Level (Village level-inter-household)

Tharu of Dang and Bardiya use the term *Barghariya* and Bara's Tharu use *Panchayati* level for their respective systems when dealing with social conflicts. Conflicts between members of the village over matters such as irrigation, land boundaries, issues with role of *Barghar-Mukhiyas* and their relationships with *Barins* (households) are managed and resolved at *Panchayati-Barghariya* level. Conflicts relating with community resources, such as issues with public land, conflicts between *Kisan* (Farmer) and *Jimindar* (landlords) and conflicts between members of different households are considered as *Panchayati-Barghariya* level conflicts.

P**articipant 2**. When interviewed: responded, "It is our tradition that all issues should be resolved in our village. Let's come together realistically and compromise. We decide so many cases, such as boundaries of agricultural land, contracts, credit, and trespassing." Within the Tharu community, conflicts can take many forms such as class-related tensions, inter and intra-communal disputes, political, religious (i.e. Muslims and Hindus), and cultural differences.

Participant 5. Described the proactive approach: "We hear what is happening in the village. The proverb, 'prevention is better than cure' applies to suicide cases. We identify the symptoms of that particular person, then prescribe the therapy, the cure." The

community considers committing suicide as an immoral act that affects the entire village; thus proper attention to help the victim of mental disorder is given prior to the incident happening.

Participant 1. Described an example of conflict about resources the villagers had dealt with:

Laxmi Shah was the landlord (*zimindar*) in our area and we were tenant farmers. He was so cruel, thus, he cheated us on various occasions. We worked hard to produce the harvest at our best but he took all of it. We complained about it, but in return, he filed a lawsuit against all of us for the harvest (*cut*). We fought against the landlord to end his exploitation.

Participant 16. Gave more details about the nature of conflict:

Land issues, property inheritance (and) interpersonal conflicts can be resolved at the village level. Only civil cases and some minor criminal cases — we take care of. Murder, rape and robbery cases have to be reported to police. Fights, a division of family property, theft, interpersonal conflicts, assaults and wood smuggling are the kinds of things we take care of. Conflicts can arise from various types of inequality. The nature of conflicts varies based on the caste and class stratification. Major cases are land disputes, conflict arising within or between households, social issues and inter-group conflicts.

It appeared that all conflicts (cases) except murder, rape and robbery are dealt with by *Barghar-Mukhiya*.

Participant 17. Observed:

Some villages try to resolve those conflicts within their jurisdiction without notifying the police. The *Barghar-Mukhiya* model serves an important purpose when it can deal with such conflicts. The model deals with situations holistically, so it is sometimes difficult to distinguish between civil cases and criminal cases. Those issues or problems, which cannot be settled at the village level, will be sent to the formal system, including the village development committee (VDC), police or court depending on the nature of the cases.

Participant 4. Talked about conflicts over jurisdiction:

Barghar-Mukhiya settles mostly cases related to land, *tantakhichola* (seizure or illegal use of someone's land), and land boundaries. Another type of property-related civil case is a complaint against the leaders who have authorized construction of a road through someone's land. Conflicts also arise over management of income in a temple or deciding whether village development committee (VDC) has the authority to run a temple.

Participant 14. Remarks: confirmed the frequency of disputes about land and property:

Mostly we deal with civil cases related to land and landlord tenants' issues. Land boundary and demarcation, unauthorized use of land, change in ownership rights, looting of crops, tenancy rights, tenant eviction, and obstruction of existing paths are the most frequently reported land conflicts in the community. Other major sources of land conflicts are related to public land encroachment and control, fraudulent sale and partition.

Participant 2. Further talked about things that influence conflicts the model deals with:

"We mediate all kinds of cases. Cultural degradation and dowry customs are the diseases of Tharu society. Assaults (*Kutpit*), credit transactions (*lenden*), and conflict arise from agro-farming." As other participants reflected, the dowry custom is rooted deeply in the Tharu community. Due to not getting dowry that was promised as part of the wedding, several domestic violence cases are occurring in the community. These conflicts are also taken care of by *Barghar-Mukhiya*.

The *Barghar-Mukhiya* model also deals with mistreatment and misconduct in general. Any issues, problems, and crimes initially within the village jurisdiction fall under *Barghar-Mukhiya's* authority. Ninety percent of total participants responded that it is better to address the root causes of the conflicts. For example, alcohol-related disputes used to be common, but due to the women's campaign against alcohol, the incidents are significantly lower. Some villages try to resolve such cases within their jurisdiction without notifying the police, but other villages routinely report those issues to the police department.

Participants mentioned other causes of conflict: Taking revenge against wives for their family's nonpayment of dowry and other evil customs, like the persecution of *boxi* (witches) in which women receive heavy physical punishment including death. Participants claim that cases frequently involve alcohol use and sexual abuse against women. The *Barghar-Mukhiya* provides care and protection to women. Individual cases of abuse of women, such as rape and domestic violence, are considered very serious; thus

immediate action is taken against perpetrators by the *Barghar-Mukhiya*. Assaults, theft, and other minor criminal cases are also resolved in the village. The model also resolves cases arising from human-caused accidents, natural disasters and harmful natural occurrences, credit transactions, fraud, looting and other civil cases. An example of a minor civil case would be someone who doesn't volunteer *Bethbegari* (free labor for community service) and must pay a fine.

Samuhik (Inter-village, inter-group)

Conflicts between two or more groups or villages are considered as Samuhik (inter-village, inter-group) conflicts. Villagers' issues and conflicts against NGOs, VDC and government officials are negotiated by *Barghar-Mukhiya* and handled in this level. Together, the *Barghar-Mukhiya* leaders of the conflicting villages resolve these conflicts. In some cases, due to the wider impact, *Barghar-Mukhiyas* and other *panchbhaladmi* from other villages will be invited to settle those conflicts.

Participant 24. Talked about how the model would resolve the inter-group conflicts:

Gang fights between two groups from two different villages occurred. We *Barghars* of both villages sat down and found out who was at fault. Despite the fact that one gang had started the fighting, we found out that both parties were responsible for the incident. At the end, we let everyone shake hands and forgive each other. We did not want to penalize anyone because our model is based on (*maphi magaune*) restorative justice, not retributive.

Participant 11. Expressed his concern about the migration of Indian and Hill migrants that posed a threat on his sense of identity and security. He recited the proverb,

" *Uttarse Aayal topiwala Dacshinse Dhotiwala bichme pargail lagautiwala" meaning*,

"The Hill migrants came from the North, Indians came from the South, and the Tharu are

trapped in between."

As participants reflected, conflicts such as Tharu vs. Government, Tharu vs.

Pahadiya, Tharu vs. Indian migrants, and *Barghars* vs. VDC officials are also dealt with

in the same way as other *inter-group* conflicts. Examples of this type of conflicts are

threats and discrimination received by Tharu people from Nepal Government, Police,

Pahadiya, and Indian migrants. Another example of *inter-group* conflict is political

violence, such as the conflict that occurred last year in Tikapur Kailali, Nepal, where

eight police officers were killed. In the aftermath of that violence, more police and

security forces were positioned in Tharu community in retaliation for the violence.

Consequently, *Barghar-Matwans* were able to negotiate with the government and

security forces advocating for peace and security for the Tharu people. Torture and

assaults of Tharu protesters against the government during the constitutional

promulgation period also typified this level of conflict.

Participant 25. Reflected on his experience working with VDC:

When I was at the VDC planning and development meeting, the VDC officials,

who were mostly *Pahadiya*, intentionally denied a request for culverts to build a

bridge in our village. I felt bias and discrimination against us caused them to

avoid allocating appropriate culverts for us.

Inter-cultural Conflict (Western Culture/ Christianity vs. Indigenous Culture)

As participants reflected, conflicts resulting from clashes between two religions,

especially threats from Christian missionaries are dealt with outside Tharu tradition and

customs. Due to the coercive influence from Christian missionaries, Tharu are converting from their indigenous religion and culture. As focus group participants in Bardiya reflected, due to the vulnerability created by the poverty, Tharu people are motivated to be converted by offers of money. Additionally, corporate culture, modernization and westernization have undermined the Tharu's traditional way of life.

Participant 15. Commented on the impact of changes in culture:

People are in bad shape these days. Development of technology is inviting immoral cultures. Cinemas, TV, *aslil* (nudity and pornography in films) pictures, are destroying the society. The new generation is imitating bad things, losing good culture and traditions. School (*pathsala*) has been diluted from its mission. Moral education has no role in the society. The culture of respecting elders and loving children has been decaying. Teachers drink alcohol and then go to school to work. Public education has been politicized. There are no checks and balances. Although society needs progress, there is no thinking about reforms in the society. Dowry customs, alcohol use and sexual abuses are rampant.

Conflict Resolution Steps (*Daundasamadhanka Tahaharu*)

If a *Ghardhuriya* or member of the village has any complaint or request, he/she reports it to *Barghar-Mukhiya* or any active leader of the community. If it is about division of family property, *Matwan or Agahwa* in Dang asks the party to wait until *Maghi* when all villagers will attend for celebration or selecting new leaders etc. As reflected by the participants, dividing a household impacts the entire community, as the *Ghardhuriya* is an integral part of its identity and security. In other disputes, the *Barghar-*

Mukhiya contacts the *Chaukidar, Sachiwa* for calling the meeting. *Chaukidar* will let all villagers know about the meeting date, time, reason and place of meeting.

Traditionally, the process usually takes place in the *Barghar-Mukhiya's* yard, but nowadays it can be held anywhere in the village jurisdiction such as the *Bramathan*, a village temple (deity place), or any public place.

Participant 19. Explained the steps of the process:

The first step of the process begins when the *Barghar-Mukhiya* receives a complaint from a particular household. Then the *Barghar-Mukhiya* calls a meeting for hearing through the *Chaukidar*. The parties, along with all villagers, are notified to attend the meeting. Then the leaders —*Barghar, Matwan or Mukhiya* — make sure that the parties agree to follow the decision/outcomes prior to beginning the process.

This is a ground rule, which then gives the *Barghar-Mukhiyas* authority to be involved in the decision-making process. Next, the *Badee* (plaintiff) gets a chance to share his/her story or claim and afterward the *Pratibadee* (defendant) has the opportunity to tell his/her story. At this point, if there are witnesses, they testify, followed by other attendees who also share their concerns or suggestions. Next, *Barghar-Mukhiya* forms a *Samittee* (committee) consisting of up to seven *panchbhaladmi* (five elders to be selected from the community members who must be from that village, experienced and persons knowledgeable about that particular issue.) In a separate meeting, the *Samittee* (committee) decides the case then shares the result at the larger meeting. The committee again meets to determine the fine or warning (punishment). The warning should be fair, but focused more on compensation, not punishing the offender. Finally, *Barghar-*

Mukhiya announces the decision. The process of the model is transparent open and easily accessed by everyone in the village.

> **Participant 13.** Explained the qualification of being a committee member:
>
> To sit on the committee, a person must be what was called a *Panchabhaladmi* (five wise individuals) during the *Panchayat* regime, meaning someone from the village who is respected, experienced, and wise. The committee has at least five members up to seven.

According to the participants, this process is inclusive and democratic, because they say it depends on the experience of a committee that has knowledge of this particular case and community matters. A separate, private meeting of the committee is held away from the rest of the village to discuss the issues of the case.

> **Participant 14.** Explained the roles of committee as:
>
> The committee then evaluates the facts and evidence relating to the case, the root cause of the dispute, and witnesses testimony. It then goes before everyone from the village that wishes to be heard. Then together all committee members meet with villagers and a decision is made by consensus whenever possible.

Finally, according to the participants, the committee seeks to make a unanimous decision. If this isn't possible, then the committee might advise the parties to seek resolution through the formal system. There is no appeal provision in the verdict and the decision of the *Barghar-Mukhiya* is final. The *Mukhiya, Barghar or Matwan* publicly announces the outcome.

Implementation of the Decision

Barghar-Mukhiya establishes rules on upholding villagers' moral standards etc. and villagers who violate the village rules will be fined compensation. It is also the *Barghar-Mukhiya* who is responsible to implement the decision. The outcome may be a fine, compensation or a light warning such as *Kan Samayer Uthbas Garaune* (Pulling ears and up and down), *Dhog Garai Mafhi Magaune* (Bowing low status...). Resolving conflicts locally whenever possible is an inexpensive way of delivering justice in the community. There are no costs involved for complaining and deciding a case and compensation is awarded as a fine for wrongdoing, based on the economic condition of the perpetrators.

If the decision is unanimous, then it is carried out per the conditions laid down by the committee. "Participant 2" said, "The outcome of the decision might be the imposition of a fine to the perpetrators or warning. If the decision includes a fine, it is from 200-500 Nepalese rupees." Assistance or relief is provided to people with health problems or who have low or no income. Finally, the decision will be implemented as per the conditions laid down by the committee. As one participant noted "the punishment is based upon the offense." The circumstances of the victim, perpetrator, and the village are taken into account.

Participant 22. Said, "In this model, forgiveness is possible for the first offense or second time in minor cases, but only if the victim or other parties are willing. Forgiveness for the first offense comes with a warning."

Participant 23. Indicated that a perpetrator might be excused from the penalty if his wife is disabled or insane and he must care for her. Participant 23 further explained

the restorative justice practices, as, "According to the indigenous model, it is believed that perpetrators should be in society, not in jail. Therefore, a second chance to get back on track is given to most perpetrators." The majority of participants noted that compliance is easily monitored because in the village everyone knows each other, so it is easy to find out everyone's behavior. The outcome of the decision might be imposing a warning or a fine to the perpetrator. Some examples described by participants are:

"*Kansamayer Uthbash Garaune*" - A popular type of light warning punishment that involves catching both the culprit's ears and pulling them up and down.

"*Dhoggarnalaune*" - literally touching the head to the leg, which means the offender must greet others by bowing down and touching his head to their leg, showing lower status.

As discussed in the section about reconciliation, other penalties consider the collective well-being of the parties and the community.

Participant 28. Said:

Assistance or relief is provided to people with health problems or who have limited or no income. Perpetrators who can't pay cash may have to compensate the family with in-kind goods, such as *murga* (chicken) and *rakshi* (local wine). A frequently imposed penalty in Dang is the killing of the perpetrator's pig, as well as hosting a party at his/her expense.

The sharing of food and *rakshi (Daru*, in Tharu language), an alcoholic beverage made locally from fruits and grains (also known as *Jad*) is a way of restoring the relationships between the parties and community members through pleasant social interactions. The model's ultimate goal is reconciliation and collective well-being.

Because parties agree beforehand to accept the decision, there is no appeal provision in the verdict and the decision of the *Barghar-Mukhiya* is final. Serious crimes such as murder, rapes and robbery won't be heard and are usually referred to the formal system.

Approaches

Seventy-nine percent of interview participants responded that *Barghar-Mukhiya* model focuses on reaching a mutually agreeable, win-win resolution. In other words, both parties have to be satisfied with the outcomes of the settlement. Basic steps, which are the core of the process, include: taking the oral complaint; hearing from both parties; and finding out the truth. Decisions are made which are agreeable for both parties. The non-Tharu community also follows the process known as *Panchayati* process. Caste, gender and religion do not come into consideration during the decision-making process. Before moving forward with the process, the leader, *Barghar-Mukhiya*, makes sure that the parties agree to follow the decision and outcome, which gives the committee and *Barghar-Mukhiyas* authority to be involved in the decision-making process. Frequently occurring descriptors included: "pre-mediation agreement," "respect" and "respect for decisions."

The whole community is involved in the process; participants of the meeting engage actively, discuss the matter seriously, and investigate the truth. Participants' accounts frequently mentioned "participation," including: "participatory approach," "participation involved in meetings and village affairs," and "collective decision-making." Finding a mutually agreeable solution is the main goal of the process. Though parties to the conflict bring their respective biases, the goal of the model is to uphold the

principle of impartiality. The tradition is to reach a compromise, which is acceptable for both parties of the conflict.

If a decision cannot be reached, the *Barghar* may break the tie or make the decision. Or the parties may be advised to seek resolution through the formal system. Participant 19 recalled that in Dang, complaints that couldn't be resolved used to be sent to the *Malamini Adda* (formerly the name for the government office from the Rana regime). If necessary, the final appeal was sent to the *Daudaha*, a judicial fact- finding team from Kathmandu.

Reconciliation (Melmilap)

The frequent recurrence of the code 'bringing the people together' strongly indicated that the concept of reconciliation is prevalent in Tharu community. Ninety percent of interview participants said that the principle of peaceful co-existence (*panchshil*) is integrated into their traditional model and includes helping each other, no interfering from outsiders, providing economic relief to the victims, etc. These principles are used in the decision-making process. Ninety-five percent of interview participants responded that communal harmony; interfaith relations and religious tolerance are also maintained in the community. The code 'bringing people together' recurred so frequently, that it was developed as a category. According to two-thirds of the interview participants, community dialogues are held to bring people together and maintain peace and harmony in the community. Participant 2 summed up this approach. "It is our tradition that all issues should be resolved in our village. Let's come together in reality and compromise."

The words "amnesty" and "forgiveness" frequently occurred in participants' accounts. Participant 5 said: "Tradition is to make a compromise between the parties. Both parties accept the decisions. The decisions are binding for the parties." Reconciliation is the best way to resolve personal and group conflicts. Participants talked about the option of forgiveness, which can be given only when the victim or affected parties are willing.

Participant 33. Recalled a dispute that was settled this way:

A nephew had borrowed 10,000 Nepalese rupees from his uncle without any paperwork. But later the uncle disagreed with the nephew's claim that he had returned the money. So at the meeting, he proposed that if he testified while touching *tamatulasi* (sacred plant and copper) he would give it up. He did the same. We told him that your nephew is also like a son, so forgive him. He listened to the *Panchayati*. The case is resolved.

Acknowledgment (Galtikabul Garaune)

Acknowledgment is another way of reconciliation where perpetrators acknowledge that he/she has made mistakes and should not repeat them. Handshake ritual is used nowadays after forgiving the offender. Realization of wrongdoing from the perpetrator is the first step towards the reconciliation.

Another example given related to what happens if a married Tharu woman commits adultery. Nowadays, the Mother Committees are emerging as part of the model, especially to deal with issues of women only. Mother Committee can decide to forgive her with a warning not to repeat the offense in future. In the case of rape or abuse of women, it depends on whether the husband forgives the perpetrator and will take the wife

back. If not, then there is no forgiveness in cases like rape. Male adultery also occurs in the village, which can be forgiven as well.

Restorative Justice (*Maphi Magaune-Milaune*)

Tharu indigenous model is similar to the western concept of restorative justice. A prevailing idea throughout the participants' accounts was the goal of preventing problems through the *Barghar-Mukhiya* model. Instead of punitive justice, the Tharu model focuses on prevention of conflict and restoration of the relationship between the offender and victims.

Participant 28. Explained how the process works:

We are equally careful about healing both parties — perpetrators and victims. Our focus is making sure that both parties are able to live together in the same community. For this, we ask the perpetrators to compensate the victims for the damage that occurred. (We) even ask victims to let it go without compensation if it is first or second-time minor offense.

Participant 19. Explained, "Our focus is on reforming offenders, not punishing them." Compensation as a means toward reconciliation is based upon the seriousness of the wrongdoing or offense. It is also determined by the economic condition of the offender, but if someone repeats the mistakes, their fine will be doubled. Reparation is possible, for example, through medicine for treatment of an injury or monetary compensation granted to assault victims. In order to show community solidarity and harmony, in addition to fines paid by the perpetrator, donations may be collected from other villagers to cover the funeral expenses of the victims. The community helps victims heal and recover from the tragedy or trauma by showing sympathy. Depending on the

case, compensation collected from the offender often goes to the public fund. This way, an emergency relief fund is created to help future victims of emergencies. Participant 19 responded, "In the case of damages of someone's house, burned down by fire or natural accident, all villagers rebuild it through their volunteer service."

Participant 35. Further elaborated on the collective responsibility of the community to help its members:

> If someone commits a crime and police arrests him, it is a community responsibility to take care of his family. His family may be dependent on him entirely, thus, it comes to everyone the responsibility to take care of his family. As noted in the section about implementation, restorative justice may require the perpetrator to compensate the victims and their families with cash or food such as *murga* (chicken) and *rakshi* (local wine), etc. A public apology to the victims' family gives victims and their family an opportunity to forgive the offender and is a common restorative practice in the village. Reconciliation, community harmony, and collectivist approaches are core principles of the Tharu traditional model.

Participant 5. Talked about the ongoing goal of looking after and caring for fellow community members: "We hear what is happening in the village. The proverb 'prevention is better than cure' applies to suicide cases. We identify the symptoms of that particular person then prescribe the therapy- the cure." One of the characteristics of the collectivist society such as Tharu is to take care of the community members during the disasters, emergencies, or times of dire need.

The *Barghar-Mukhiya* model values the establishment of a positive relationship between the victim and wrongdoer. They believe in restorative justice, not retributive and

punitive action. All participants claimed that public apology from a wrongdoer is a common practice in Tharu villages and victims will sometimes pardon the offender. Reforming the perpetrator is the prime goal but repeated or more serious offenses result in a fine imposed as compensation to victims for their damages. Money collected from fines and compensation (*Jariwana* and *Chhetipurtibharaune*) can also be used for running schools, public buildings, and properties, thus compensating the community.

Forgiveness (*Maphi*)

Ninety-seven percent of interview participants expressed that forgiveness should not be offered more than two times, based on a case-to-case basis. In order for a perpetrator to receive forgiveness, the victim must be satisfied and willing to offer it. According to Participant 4, "perpetrators of rape cases will not be heard unless victim's husband is ready to forgive the perpetrator. It is hard to forgive in murder cases." In the past, the rape cases used to be resolved in the village, but nowadays this type of case must be reported to police as required by law. If the police investigate, district court judge decides the case. If the case is mediated at the *Barghar-Mukhiya* level, perpetrators may get forgiveness. If the rape case reaches the district court, the perpetrator gets a punishment.

In the broader context, participants expressed their concerns about how the State had marginalized and discriminated against them in the past. The ruling parties must apologize for past mistakes committed by the State, they believe. Tharu lands have been confiscated, their dignity, identity and security have been undermined, and they have been hurt by the State's discriminatory policies. They said reconciliation is needed to

erase those past harms. Only then, they said, should Tharu be able to forgive, if they choose.

Rituals/ Festivals

Religious rituals and puja are performed to achieve eternal truth and maintain peace and harmony by transcending the interpersonal and intergroup conflicts.

Participant 36. Explained the importance of rituals and festivals as:

All festivals are a symbol of unity, such as *Maghi*, the Tharu New Year, is also considered the festival of national unity. This festival unites all Tharu of Nepal under one umbrella. It has a reconciliation aspect to it as well. For example, greetings to elders and getting blessings from them bring the people together. Tharu who lives in Kathmandu celebrates this great festival by organizing a big community event every year in the National Park (*Tudhikhel* of Kathmandu). When asked question 15, "What are the model's working processes?" most participants' comments expressed the idea that love, harmony, and peace are the core of the *Barghar-Mukhiya* model. Frequently occurring descriptions were coded as "Peace," "Harmony," "Fraternity "Sense of Unity." According to them, reconciliation is promoted not only through dialogue and mediation to resolve specific issues, but also through festivals and rituals.

All thirty-eight-interview participants responded that an essential function of the *Barghar-Mukhiya* model is to bring family and community together to strengthen bonds and a sense of shared identity by celebrating together. According to participants, while the mediation/conflict resolution process itself is secular, religious festivals and rituals foster connections that lead to consensus building.

In this model, much of the reconciliation and reunion process takes place during the festivals of *Maghi, Dasara, and Holi*. On these occasions, all community members meet at the *Barghar-Mukhiya's* homes in the Bardiya and Bara districts, and in the *Matwan*'s house in Dang district, to discuss current matters requiring resolution. The familiar ritual of sharing local alcohol and traditional food eases most tensions about communicating and sharing feelings. This is an important part of renewing relations that were broken in the past year.

Participants related how peaceful coexistence is enhanced through festivals and rituals that bring family and community together, promoting the messages of solidarity, harmony, fraternity, and brotherhood among all community members. Coordination of rituals and festival celebrations is one of the essential roles of the Tharu indigenous model. For example, *Maghi* used to be a celebration of New Year at the community level, but now it is celebrated at national level. It is one of the government-recognized holidays in Nepal. *Maghi* is celebrated on the first day of Nepali calendar month of *Magh* in Kathmandu as a big ceremony promoting Tharu tradition and culture.

One question the researcher had asked of all interviewees and focus group participants was whether they believed Buddha was born as a Tharu. Of these, 58.8% responded positively, 5.9 % responded negatively and 35.3% were not sure. The purpose of asking this question was to get participants' perspectives on their history, identity and their relationship with the lord Buddha. This has become a subject of much community discussion because of the Tharu's desire for State recognition. Majority of the Participants say they are proud to be connected with lord Buddha and they see this

connection as a sense of their identity. They say they like to unite all Tharu under this historical identity.

The Tharu people mostly practice Hinduism, Buddhism and Nature worship. Nonetheless, Tharu communities show tolerance for other religious practices. They are open to celebrating and respecting cultures from the inhabitants of other lands. Under the influence of *Madheshi* (immigrated from India in the plain area of Nepal) and *Pahadiya* (People of Hill origins), they have adapted and integrated the Hindu festivals of *Teej, Dasara and Chhat*.

Pig Killing Ritual

One of the best-known examples of peacemaking rituals in the village is the pig killing ritual. Pig and other food items are used as symbols in the ritual. Some cultural practices and customs have been adopted because they prevented conflict in the past. For example, the raising and consumption of pigs are said to have the historic connection with practices once used to resist invasion by Mughals. In fact, this practice has gained such a place in Tharu identity that participant 32 quipped that if a non-Tharu wants to be a *Matwan* in Dang, he/she should kill a pig and offer a party to the villagers.

These rituals bring all villagers into a unique space where a dialogue takes place to rebuild the relationships. To this day, killing and cooking a pig to share with the community is sometimes used as a form of compensation for particular offenses. This ritual is also used as part of other ceremonies and celebrations, such as a wedding. Serving this food, as well as *rakshi* (*Daru, Jad)* or some other alcoholic drink was mentioned frequently in connection with shared gatherings that restore or affirm relationships between villagers. In fact, foods such as chicken, rice or eggs are also

offered to appease or stay in a good relationship with the god or goddess. Nowadays, this ceremony and its expense may be imposed as compensation for an offense.

Participant 18. Talked about such a ritual, as prescribed by the *Barghar-Mukhiya:*

> (Here's a) Problem of the village, such as if a younger brother had sexual relations with his sister-in- law. If (her husband), the elder brother is alive, (then) the younger brother will be punished and has to pay cash compensation. If the elder brother is not at home and the younger brother had affairs with sister in law, then the younger brother will get married with her after doing a ritual called '*Bur Chokhaili'*. For this ceremony, a pig will be killed and the younger brother will organize a community party.

Meet and Greet (Dhogbhet) Ritual

This ritual creates a sense of community. *Dhogbhet* is a ritual during festivals in which people hang out, talk to one another, Meet and Greet. '*Dhog'* means greeting (by bowing to someone's feet) which symbolizes friendship and relationships. People forget the past conflict or disagreements or differences during the *Dhogbhet* process. Traditional food such as rice and fish with alcohol is shared during the process. In this ritual alcohol represents sharing and community. The ritual space is open held in a special place like the home of the *Matwan, Barghar or Mukhiya* or sick person who may treat the guests to food or drink. Conflicting parties bring symbolic gifts to the home.

Dhogbhet (meet and greet) helps resolve many interpersonal and group conflicts. In addition to selecting the *Barghar, Mukhiya and Matwan* during the *Maghi* and other

festivals, the conflict resolution process also takes place to maintain peace and harmony in the community.

> **Participant 18.** Related an example of this process in the following scenario:
>
> The fighting had occurred during (rice) paddy cutting. In the evening, both parties gathered at the *Matwan*'s house with their complaints. Both parties were given time to speak about the incident, turn by turn, and the *Matwan* listened carefully. The *Matwan* also offered drinks to the participants; conveying to all the villagers who come to his house that they are his guests and should receive equal hospitality. All participants started drinking and discussing about what happened while they were cutting (rice) in the (rice) paddy.
>
> *Dhogbhet* (meet & greet) dialogue also takes place during the major festivals such as *Maghi, Dasara and Holi*. The purpose of the dialogue during the *Maghi* is to resolve the conflicts by transforming the relationships of the conflicting parties. This is a time set aside for villagers to meet face-to-face at a neutral place such as *Matwan*, *Barghar* or *Mukhiya*'s house to affirm and mend the relationships.

Maghi Celebration

Maghi, the biggest festival of the Tharu, is famous for celebrating Tharu culture and holding conflict resolution dialogues at the same time. Passing the tradition and culture to the next generation is integral. During *Maghi*, people visit elders to receive blessings. It is also a time for decisions that impact the community, such as division of multifamily households.

> **Participant 19.** Talked about the function of the *Maghi* in mediating and facilitating the conflict resolution process:

During the *Maghidewani* (i. e, the second day of *Magh*), all fights and quarrels

that occurred at different times are presented at the *Matwan*'s house for

resolution. Those who want to divide households then propose it during the

celebration. The extensive dialogue about the division happens on *Maghidewani*.

Before the *Matwan* declares his approval and divides the property equally, he

listens carefully, provides counseling and briefs them about the disadvantages of

the division. If the parties still wish to divide, then the *Matwan* will approve. In

addition to resolving conflicts that occur in the community, as part of his

administrative duties, the *Matwan* also prepares community development plans

for next year.

Traditional food- rice, *Ghughi*, fish and alcohol are used as rituals. These symbols

of rituals help the conflicting parties to rebuild their relationships.

Circle Dances

In many cultures, the circle symbolizes unity and protection and for Tharu people,

the Circle Dances are peacebuilding rituals. They are thought to bring *Sukkha* (happiness)

and decrease the *Dukkha* (unhappiness from clinging) as Buddhism teaches. Especially

during the major festivals, girls dance in a circle and sing a song, *Barka Naach,* which

retells the story of *Mahabharata*. Its lyrics are about peace and harmony. Women

especially girls use songs and poetry to transmit positive social values of peace, love and

harmony. Women dominate rituals with songs and dances. Drumming by men enhances

the rituals, but in some they also dance. Tharu *Naach* team performed a drama during the

Faguwa (Holi) about lord Krishna's life also known as *Krishna Avatar*. Similarly, the

message of class conflict that occurs between *Jimindar* (landlord) and poor Tharu is

conveyed in the play called *Krishna Avatar*. Dance and music embody the transformation of relationships between conflicting parties and maintain peace and harmony in the community. Circle Dances are also an important ritual through which conflict can be resolved.

Participant 18. According to:

All villagers go to the *Matwan's* house on other occasions such as the *Sakhiya* dance (a kind of Circle Dance where messages about Lord *Krishna* and his teachings exchanges through the songs with dancing), The sources of the *Sakhiya* dance is *Bhagwat Gita* one of the Hindu Scriptures that aims to bring youth boys and girls together during the festival *Dasara*. Youth boys and girls for sharing their love during the festival of *Maghi* perform the *Maghauta* dance. Tharu girls and boys perform *Hurdungwa Naach* during the festivals such as *Dasara* and *Maghi*. The *Chuki khane* tradition in which drinking and consuming pig's meat will be performed during these festivals. All disputes and oral conflicts will be resolved during these occasions. This system is helpful in resolving interpersonal, community, and group conflicts.

Women participate in peacemaking and community harmony through the rituals and festivals. For example, women plough to ask the god *Indra* for rainfall during the drought seasons. Women arrange all materials for rituals, but traditionally only a male *Guruwa can* perform the rituals. Additional details are found in the researcher's observations section about the role of festivals and rituals.

Ritual Friend (Mit-Yarjee)

The ritual friend is regarded as a family member; no marriage is allowed between family members of the ritual friend. According to the interview participants, the purpose of the ritual friend is to build relationships to transform conflicts or differences. The researcher has a Tharu ritual friend in order to build relationship with Tharu community in Bara. The goal is to bring two families together. The religious leaders *Dhami* (equivalent to *Guruwa*) in Bara and *Guruwa* in Dang and Bardiya perform the ritual. It is all about making friendship and bonding relationship. The significance of this ritual is to make new relations and reconciliation because sometimes if you have conflict with another person or ethnic group, the ritual friend is helpful to resolve the conflict.

Participation/Acceptance

Participants perceived that the *Barghar-Mukhiya* model is a democratic and inclusive model that serves the Tharu and non-Tharu community as well. All villagers are invited to the meetings, including non-Tharu such as *Pahadiya* (Hill migrants), *Dalit* (untouchable *Mushahar*, *Dusad*), and *Madheshi* including Muslims.

Participant 35. Explained, "If a non-Tharu uses the same irrigation (*Kulo*) for his/her land, he must follow the decisions made by *Barghar-Mukhiya- Matwan* thus he/she is the part of the model." All villagers can participate during the *Khyala*, *Jutela* and *Gamala* meeting where, *Matwan*, *Barghar or Mukhiya* are selected. This is important because it is also the time when rules, policies, the annual plan and budget are passed for the entire fiscal year.

On the question about the impact of *Barghar-Mukhiya* decisions, all interview participants responded that its decisions are respected, it is vibrant and thus, it has a very

positive impact on the community. Participants' comments reflected that fair and balanced decisions are found, leading to acceptance by Tharu and non-Tharu community of its decisions. According to participants, non-Tharu people like *Mushahar*, *Dusad*, *Chamar* and even Buddhists and Muslims accept the decisions made by *Barghar-Mukhiya*. Many participants said that non-Tharu community members also show respect for the decisions of *Barghar-Mukhiya* by participating in the meetings and decision-making process. Participants say it is everyone's responsibility to honor these decisions. Ninety-five percent of participants reported that nearly all the decisions made by *Barghars-Mukhiyas* model are implemented because community members comply with them.

Impact of Gender, Religion, Age and Caste on Participation

Role of Gender

Ninety-seven percent of interview participants responded that women's participation in the model is growing, using language like "women empowerment," and "women forums." Comments from the female interview participants suggested that women should have equal participation in every sector of the society to uplift all women, including Tharu women. However, they noted that there is still only minimal women participation.

"The majority of the participants believed that due to the Tharu tradition and culture, women are still hesitant to participate in the meetings. In Tharu villages, it has been a tradition for males to work in agricultural fields and for women to be confined to the home and this is still largely the norm. One male interview participant expressed the widely held perception that women are not good public speakers. Yet, some participants

acknowledged that the *Ghardhuriya*, male head of household, prepares for community

meetings (*Khayla, Jutela or Gamala*) by discussing problems with his wife, the

Ghardhuriyan. Even if she doesn't attend, her suggestions influence her husband's views.

Participant 18. Described this interaction:

In Dang, women have a vital role. In practice, the *Ghardhuriya* gets the

Ghardhuriyan's backup support in decision-making. She gives her feedback

indirectly, politely; keeping the relation with her husband intact while making

suggestions like, "What if we would do this to resolve the conflict?"

In recent years, women's committees have formed to solve women's problems,

sometimes calling themselves the Mother Committee. According to them, this is a new

change.

Participant 19. Talked about this approach:

Women settle their own cases. If they cannot decide a serious issue, we help them

to solve it. Those children and women are called into the meeting whose father

and husband passed away. Younger adults participate in the meeting if their

parents are absent. People evaluate our decisions. Compromise and diplomatic

solution are critical.

Participant 4. Also commented on women's representation:

Nowadays, women's involvement in the model and overall roles in the

community are gradually increasing. After women got an opportunity to go to

schools and eventually started working at NGOs and civil society organizations,

they started resolving conflicts by themselves. The recent provision of thirty-three

percent of the legal representation of women in every political sector is encouraging.

Another participant, who is a CA member, commented on women's role:

> In the past women had no role to play. The women empowerment initiative has helped to increase their participation in community meetings. Now women have started serving as *Barghar-Mukhiya*. About 8-9 *Barghars* are women throughout Nepal. Women have actively participated in village level development and planning activity such as *Cleaning the Village Campaign*.

However, some participants expressed irritation about the lack of proper implementation of this Constituent Assembly provision into practice. A female CA member was a little disappointed about how male-dominated society discriminates against women. She said, " Male counterparts have abused women. Mostly women are the victims of domestic violence. Women's participation is low thus needed to increase their participation in every sector of the society."

Some women activists have advocated for 50% women representation everywhere. In the meantime, women's participation as *Barghar-Mukhiyas* is still minimal but gradually increasing.

Participant 38. Commented on the current role of women as:

> Women *Barghars-Mukhiyas* are found in some areas of the Tharu community at present. At least, one or two women are included in the committee, which gives room for women to express their voices. Those women whose husbands are not at home or women who have no husband will attend the regular village meetings. Women are active in their houses and their role is rapidly increasing in the

community. However, there are still some villages in Bara where their tradition bars women from participating in public meetings.

Women's role in rituals is discouraging. There are no single women *Guruwa*. According to the participants, if a woman participates or has knowledge of shamans or mantras, she is considered to be a *Boxi*. Also, during the *Acchayat Harne* or *Pati Baithana* rituals, Guruwa even does not address sick woman by her own name rather uses her husband's name. He pronounces mantras by saying, "Tell me God, Ghost or Deities who are you causing sickness of Laxman Tharu's wife."

Participants reflected that women arrange all materials for rituals; yet, women are excluded from learning mantras knowledge saying that if they learn this, they become *Boxi*. This perception is a form of patriarchal mindset where men traditionally control women and keep them in lower status.

Age

Participants' references to elders often conveyed that they consider them to be wise, experienced and to love tradition and culture. There is no specific age requirement to be a *Barghar or Mukhiya*, but maturity and experience count. Eighty-four percent of the participants claimed the elder generation plays a vital role in the model and are always consulted in the case of land boundary and old road mark identification disputes because the younger generation doesn't have the long experience and institutional memory to discover the truth. Yet, it is hard to find very old people in Tharu villages, because of poverty and lack of decent health care the incidence of mortality is high. There were 15 participants between the ages of 24 and 40.

Participant 1. An elder, expressed his frustration with younger generations:

We do our best to send our kids to school, then college. When they graduate from

college, they never come back to the village. If the educated people are hesitant to

serve their village, how can we progress? It is true that there is less opportunity

for them here in the village; however, their attitude causes *brain drain*. This is one

of the reasons our community and the Tharu model is underrepresented by

younger adults.

Caste

The caste system is deeply rooted in Nepalese society and the Tharu community

is no exception. Participants claimed that Tharu easily gets along with *Musahar, Chamar*

(untouchable of Terai), Muslims and *Pahadiya* (hill migrants, which also include

Buddhists). All participants (38) responded that caste doesn't play a key role in how

conflict is resolved, since the majority of people in the villages are Tharu, and Tharu is a

caste itself. Despite the fact that Nepal State has categorized Tharu as Caste, some

participants argue that Tharu are tribal people. Nonetheless, some members of other

castes do live in Tharu communities. Although there was mention of "class struggle" the

researcher found no discrimination or biases based on caste were involved in the

decision-making process itself.

Religion

Participants felt that the practice of one's own religion should be a fundamental

freedom of the people and claimed that all religions are respected in the village.

Tolerance was mentioned as a value. Out of 68 interviews and focus group participants,

fifty-seven participants were Hindus, five Buddhists, three Nature worshippers (*Prakrit

Dharma*) and three were practicing *Gurubaba* (a newly evolving religion in Tharu

community made up of followers of the ancient Tharu *Gurubaba*, intent upon reclaiming their identity). Traditionally, Tharu have been Hindus but now some are converting to other religions such as Christianity and *Gurubaba*. All participants generally considered religion to be a code of conduct and a personal choice. For example, Hindu theory and scriptures may have an impact on a decision maker's moral standing, Yet, according to them, no decisions in conflict resolution cases are decided based on religion, caste or gender and no religious symbols, rituals or prayers are present during the actual conflict resolution process.

Ninety-nine percent of interview participants indicated that religion's role in supporting the Tharu indigenous conflict resolution model is through festival and rituals that bring people together, but not during an actual dispute settlement. Largely through a collectivist approach, the Tharu believe interfaith and communal harmony is maintained.

Participant 34. Described the origin of a tradition reputedly adopted to preserve identity and as a form of protection:

In order to prevent Muslim invasion, Tharu started child marriage. Muslim invader wanted Hindu, Buddhists, and Nature worshippers to convert into Islam. In order to prevent that from happening Tharu changed their culture such as started child marriage (where young girls used red powder on the head) and started rearing pigs. When Muslim invaders saw little girls with red powder in their head, they would not touch them due to their religious belief. Also, if you rear pig Muslim invader won't come to your home because the Muslim invaders hate pig.

Participant 18. Explained how Tharu's history connects with *Mahabharata (*the big war occurred during the era of Lord Krishna). Responding to Question 22, the role of religion in the model, interview participants reflected how religious ideas, especially those of Hinduism, Buddhism and Nature Worship, are foundations that shape the model. Most participants expressed their religious identity as Hindu or Buddhist. As noted elsewhere, some identify with the belief that Sakyamuni Buddha was Tharu. The concept of non-violence (*Ahimsa*), a basic tenet of Buddhism, Hinduism, and Jainism, is thought by participants to be strongly tied to the emphasis the model places on consensus decision-making. Participants stated that the teachings of Hinduism embrace nonviolence, surrender of want, selfless duty and the harmony of all, using sincere and truthful dialogue to avoid war whenever possible.

However, all participants claimed that religious symbols and practices are not used during the regular conflict resolution process. They acknowledged the value of positive ideals common to all religious traditions: compassion, peace and social harmony.

Challenges to the Model

Responses to the question about how the model is adapting to modern needs covered a variety of aspects. Eighty-nine percent of the participants felt that the model is adapting to the needs of the community at the right pace. The question also brought out many opinions about challenges that need to be addressed in order to make sure the model is stronger and can serve the Tharu community fairly and effectively.

Lack of Recognition

Participants expressed concerns about gaining "legitimacy" and "acknowledgment" for the local, collectivist approach of their conflict resolution model.

There were assertions that "the new constitution must give recognition," references to affirming Tharu identity and a separate *Tharuhat* state (but still administered by Nepal).

One of the female CA members, Participant 38 highlighted the potential strength that could result from unified efforts. " If we all forty-two Tharu CA members are united as one voice, lots of changes can be brought for the Tharu community. Unfortunately, we are divided by ideologies and partisan politics."

For generations, the model has overseen the *Kulapani Chaudhari* (It is called *Gumasta* in Bara) system for maintaining irrigation, settling common agricultural disputes. Now, in some districts government irrigation management has replaced the indigenous system. The popularity and sense of ownership that were part of the traditional *Kulapani Chaudhari* system have also decreased because of the influence of Hill and Indian migrants. And with the enforcement of the Irrigation Act by the government, the effectiveness of the traditional system has been undermined. Non-Tharu have taken over the top government irrigation posts, so the Tharu *Chaudhari* is only responsible for mobilizing labor forces to do menial jobs.

Participant 11. Expressed his feelings about treatment by Hill people *(Pahadiya)*:

> When I go to Kathmandu, people frequently call us *Madheshi* (Indian migrants, meant an insult) treat us as second-class citizens. Once I was in Kathmandu, Hill people treated me differently, like I do not belong to this country. They classified us as *Madheshi*. Their treatment hurt my feelings; I felt that I am not belonging to this country. They even do not recognize that we are the citizens of this country.

Participant 25. Expressed his concern about the lack of recognition of the model and suggested, "The Tharu model should be recognized by the government. Government recognition would make the model more efficient and effective. It would also enhance the harmonious relation between the model and formal system."

Class Struggle

As interpreted by Marx, class struggle exists in the Tharu community. The majority of participants expressed their concern about exploitation, discrimination, and isolation from the ruling class, landlords, and the *patwaris* (Tax collectors appointed by then Shah and Rana rulers). Participant 1 expressed how he provided leadership to fight against the landlord in Bara and how all villagers suffered from the lawsuits filed through the formal system to prosecute innocent villagers. The film, *Buhran*, clearly shows class struggle when the *patwari* forces all villagers to move to another part of the country.

Participant 34. Commented, "All Hill immigrants and Indians are not exploiters, but only rich landlords and businessmen." Thus for many participants, a class conflict exists and it creates incompatible goals that lead to confrontation.

Participant 11. Reflected on class struggle:

The *Haliya* system is when Tharu men and women become domestic servants. The masters are mostly Hill landlords, Indian landlords and Tharu landlords who recruit them during the *Holi* new year of Bara. *Kamaiya* and *Kamlari* (bonded labor) systems exist in the western part of Terai where Tharu men and women have to work for all their lives. They are working for landlords to free them from their debts but no regular salary or wages are paid. These feudal systems have

carried on the chain of exploitation of poor Tharu for centuries. These needed to be ended in actuality, not only in law (i.e., must be enforced).

Mistrust of the Formal Police and Court System

Many interview participants expressed their mistrust of the police department and the court system at the district and federal levels. Participants said that *Barghars-Mukhiyas* do not have a smooth and harmonious relationship with them. "Participant 11" said, "Court is becoming a burden for the ordinary people thus they are resolving their own issues and conflicts through the (indigenous) model." "Participant 2" described a situation in which the interests of local Tharu were not fairly represented by the formal system: "During the *Panchayat* regime several hundreds of Tharu tenants had their tenant rights (*Mohi Adhikar*) revoked based on false evidence and corruption in the Land Reform Office." According to other participants, in the *Panchayati* political system, innocent people were forcefully detained and false testimony was obtained by using torture.

A participant from Bara had witnessed another form of corruption:

From the Bara police post (*chauki*), a police officer came to investigate a case in which three children were killed by drowning in the river. The issue became huge. No one killed them; it was an accident. The police officer asked for a bribe to drop the investigation.

Participant 35. Further commented on this issue:

Mistrust of the Court System is because of corruption within the system. The recent corruption scandal-selecting judges for Appellate Court represents how bad the court are. Customary laws are stronger than written law because those are

written in the minds and hearts of the people. These rules have kept alive the traditions and heritage of indigenous groups like the Tharu.

In general, most expressed little confidence in the formal system, saying it is inaccessible, expensive and lengthy for them. But not all participants found it to be bad.

Participant 38. Recalled another case:

One of the examples I can give is from Betaha village of Saptari. Verbal arguments between two persons turned into violent physical conflict. Two children were killed. This happened twice. No one filed a complaint at the police office. They tried to mediate the case in the village. A fine was imposed and the parties reconciled. It was wrong in my view because it was a violation of the rule of law. There was no justice. These kinds of cases should be settled at the formal level. There are weaknesses in the system. If you go to the police, they ask for a bribe. Sometimes social traditions prohibit someone from getting justice. But the laws are against the will of the people. The state has to enact laws, which truly represent the will of the people.

In this narrative, the participant points out flaws in both the formal system and indigenous model and suggests how they could work together.

Participant 17. According to: there can be overlap:

Some villages try to resolve those conflicts within their jurisdiction without notifying the police. The *Barghar-Mukhiya* serves an important purpose when it can deal with such conflicts. The model deals with situations holistically, so it is sometimes difficult to distinguish between civil cases and criminal cases. Those issues or problems that cannot be settled at the village level will be sent to the

formal system, including the village development committee (VDC), police or court depending on the nature of the cases.

About a belief that plays a vital role, Participant 29 said, "Reporting a crime or issue to the police is considered to be an insult to the village. If the police come into the village, it becomes a huge humiliation or shame (for the entire village)." Contrary to the individualistic approach that is supported by Nepal's central Government, Tharu's traditional value is to handle all their problems themselves. Thus, they feel insulted when the police or formal system interferes with their internal affairs.

Ending Traditions and Practices that Violate Human Rights

The new Constitution of Nepal recently declared as illegal certain customs practiced by Tharu people that violate human rights standards. These include domestic violence, torture, and retaliation when the dowry isn't paid, the bondage of girls and laborers, and persecution of Boxi (shamans, usually women thought to be witches). The challenge is to enforce these prohibitions in remote villages where such customs are likely to prevail.

Participant 4. Commented:

Change is happening. *Boxi* customs are in past but do not exist now. If someone is victimized by being called a *Boxi* (i.e, named as a witch) the name-callers are sent to the police for prosecution. *Untouchability* is also unconstitutional now. Women's oppression as a form of domestic violence is also one of the serious problems, which is against the principles of human rights. Due to the patriarchal society of Tharu, females are considered inferior to their male counterparts and often targeted for abuses.

Low Participation of Women, Untouchables and Younger Stakeholders

Working through barriers to female representation in resolving problems that affect their families and communities is slow due to deep-rooted customs and limited education of women.

Participant 5. However: gave an example of women's potential to find holistic solutions to community problems:

In the past some Tharu (men) have been willing to sell their entire land to buy alcohol. Thus, *Pahadiya* (rich landlords) and Indian immigrants got hold of their lands by paying Tharu a very nominal price. In more recent times, the role of women has changed. So now, women in the village control alcohol because it has also been a major cause of domestic violence. Collected donations and fines are used for the development of the community. Also, more girls are in school now than before.

Participant 6. Recalled her experience:

One day I went to participate in a village meeting. When I came back home in the evening my husband was so mad, he asked me why did I go to the meeting without asking him. I also noticed that he was drunk. He told me that attending the meeting and speaking in front of everyone is not a woman's job. He beat me up for that. This is how our males think about women being exposed to the outside world. But I did not quit; I keep attending meetings and engaging in village activities.

Another participant, a woman from Bardiya site said:

Since men make major decisions at home and community, the women are powerless and oppressed. They do all the households work; farming, and such but have no control of the household income. They are fully dependent on their male counterparts.

Participant 38. Stated her opinion about how to increase participation of women and youth, "Government should have a plan for involving the younger generation in grassroots projects; if you give options they will take it. For women, we need 50% reserved positions everywhere to increase women's participation."

Participant 32. A *Guruwa* (traditional male healer), expressed his frustration about young people's low participation:

We are losing our identity. Our young generations are less interested in *Gurai* rituals. Years ago, many young people would come to see me pray to the god for good harvesting and for good luck but nowadays no youth believe in these rituals such as shamanism; they are becoming very materialistic. I wish my son would follow my profession.

Participant 21. Suggested how to increase youth participation:

We should encourage them to participate by giving them alternatives such as finding out what their interests are if they are interested in sports, music or dance, (and) giving them opportunities in those areas. The government needs to formulate a policy to engage youth in creative and innovative projects.

The study suggests that participation level of untouchables such as *Mushahar, Dusad, Chamar,* and Muslims is limited. There is not a single *Barghar-Mukhiya* who is Dalit, although the *Chaukidar* is usually from an untouchable caste.

Participants also referenced the exclusion of untouchables in rituals and festival ceremonies.

Tradition vs. Modernization/Commercialization of Festivals

Changes brought by the modern world pose a threat to important aspects of the *Barghar-Mukhiya*, as well as to the social fabric on which the indigenous model's success depends on. As mentioned by Participant 15 earlier, modern culture has exposed younger Tharu to an unprecedented array of temptations. Technology and outside influences have added new problems and conflicts never before confronted by the model. Extended families used to number as many as one hundred, but now they are breaking up.

Participant 26. observed, "Tharu traditionally had an extended family structure but due to the outside influences, especially Indian and Hill migration, the extended family is turning into a nuclear family." Another aspect participants mentioned was the commercialization of festivals and celebrations. Apparently, the Tharu tradition of a three-day marriage celebration has been cut back to a one-day party, adjusted because of increased expenses.

Another problem expressed by interview participants was that of coercive conversion of Tharu people to other religions. Participant 26 said, "*Gurubaba* and Buddhism are emergent religions. However, the majority of Tharu are Hindus. Some Tharu considers them as *Prakrit Dharma* (nature worshippers). "

Participant 36. "The very poor and those who have personal reasons have adopted imported religions such as Christianity and Bahai. We find large numbers of *Dalits*, *Majhis*, *Rajis and Sonahas* have converted their religions to Christianity and Bahai in Bardiya."

Interview participants highlighted that tradition must prevail over modernization. But they also say tradition and the indigenous model must adapt to change. They believe that a balance should be achieved between tradition and modernization so that community grows stronger and the model remains vibrant and dynamic.

Focus Groups Findings

There were a total of 30 *Barghar-Mukhiyas* and other Tharu leaders. Of these, some were also students enrolled at Tribhuvan University in Kathmandu (but who otherwise reside in Bardiya). These 30 participated in two focus groups held in Sapahi Bara and Basgadhi Bardiya. Three women, 10 men in Bara and 5 women and 12 men in Bardiya participated. Initially, there were 40 participants recruited, of which there were three participants of Bardiya and seven participants in Bara who dropped out saying they had to work that day.

The first focus group included thirteen participants, whereas the second included seventeen. The research gatekeeper Ramkaji assisted the first focus group in Bara and research gatekeeper Akraj attended the second focus group held in Bardiya. The researcher helped the discussion get started by raising a particular point, such as Tharu's basic human needs of identity. The overall focus group interviews brought forth rich discussions about a number of important questions such as security and recognition of the indigenous model by the government, the model's processes, roles of age, religion, women and the elderly to shape the traditional model, which eventually provided critical data for this study. The following findings resulted from the two focus groups.

Structure of the Indigenous Model

Discussing the structure of the model, remarks by focus group participants from both sites confirmed that the *Barghar-Mukhiya* model continues to be a highly regarded tradition that represents their identity. They also responded that despite it being traditional, it is a flexible model able to incorporate the good things from modern society. They said the model is based on their traditions, customs, and culture. For example, the traditions of restorative practices, reconciliation, and Mother committees are instrumental in resolving the conflicts. The focus group participants responded that each *Barghar, Mukhiya, and Matwan* serves the people as protector, guardian and respected authority. They play key roles in preserving unity, planning and development, administrative, ritual and judicial functions. They confirmed that festivals and rituals are a vital part of the model.

Some of the focus group participants in Bardiya felt their identity is threatened when Hill people call them *Madheshi*, an ethnic slur. This reflects their feeling that the Hill people and Nepalese government are threatening their identity and human needs by placing them in lower status. Participants demanded that Nepal government recognize their traditions and customs for dealing with conflicts.

Process of the Model

During the focus group discussions, there were numerous references to "bringing people together." According to the focus group participants; the main value of the model is to bring people together to reconcile their differences. They said that clashes between rich landlords and Tharu tenant farmers frequently create conflicts that are dealt with by the model. Even though the majority of participants support forgiveness, some

participants responded that appropriate punishment has to be given to all offenses in accordance with the model's dictates.

Responding to interview question 26, participants affirmed that the Tharu concept of reconciliation (*Melmilap*) is deeply rooted in the community and is an effective tool to bring people together to resolve their conflicts. The frequent occurrence of words such as "collaboration," "collective decision," "solidarity" and "unity" supported the idea that the model is very people-centric. Focus group participants noted that the Tharu model is uniquely inclusive because non-Tharu can participate in their meetings and festivals. Many focus group comments included the descriptor "positive" and similar terms in reference to the model's impact on Tharu and non-Tharu villagers. One participant noted a "positive attitude" towards the model displayed by other indigenous groups.

When discussing how to meet today's challenges, focus group participants recommended that there should be some qualification requirements for becoming a *Barghar*, *Agahwa*, *Matwan* or *Mukhiya* such as more education, greater competency and experience, etc. Participants questioned whether the model could adapt to better address accusations against women that they are *Boxi* (witches).

Participation in the Model

Focus group participants responded that the elderly play a vital role in the model. They said participation by youth and women has increased lately due to education and they support this. Non-Tharu influence on the model has increased due to the cultural integration and integrated community building in Nepal's plain region. But untouchables remain a special concern. No untouchable has been selected as *Barghar-Mukhiya*. However, untouchables have some role, since the *Chaukidar* (messenger who calls

meetings, considered a lower position), is usually held by untouchables. Focus group participants were mostly educated; some of them who were college graduates and former *Barghar-Mukhiya* expressed their concerns about the low participation of untouchables. They see this as a class issue because poverty and lack of their basic needs fulfillment are preventing them from attending meetings. They said, being untouchables they are discriminated against and marginalized.

Acceptance

All the focus group participants responded that they are satisfied with the model's performance. According to them the decisions of *Barghar-Mukhiya* impact positively on all Tharu and non-Tharu communities. In addition to the *Barghar-Mukhiya* model, they said rituals and festivals such as *Guruwa'*s healing treatment are still popular in the community. The majority of the participants also claimed that some patients who were not healed through Western medicine have been healed by *Guruwa'*s traditional treatment.

Change

Focus group participants agreed that the Tharu indigenous model has been changing with the times. According to them, Tharu have adopted new festivals such as *Dasara* and *Chhat*, due to the migration of Hills people and Indian immigrants. They said women's roles have slightly increased recently. (Thus, we can find some women *Barghars* in Bardiya nowadays.) They reported a decline of some oppressive, evil customs, such as the centuries-old accusations against women for being witches (*Boxi*), and against men and women for being ghosts who bring sickness or misfortune to the village. The punishment of village expulsion has been abolished. Torture as a form of

punishment no longer exists. Though there used to be only an oral decision-making process, some villages have started keeping written minutes.

Lack of Trust

All participants of the focus groups believe that there is a serious gap between the indigenous model and formal government agencies. According to them, within agencies there is rampant corruption. Courts are expensive, inaccessible and time consuming. The formal system is not considered trustworthy. Ninety percent of the participants responded that non-recognition of the Tharu indigenous model by the government and its lack of cooperation contribute to their mistrust of the formal system, especially police and courts.

Since most focus group participants were more educated in comparison to one-on-one interview participants, they were concerned about how to make effective referrals to the formal system in cases of major crimes. On the one side, elders, who are mostly uneducated, are more favorable towards indigenous practices. One the other side, educated youths tend to favor striking a balance between traditional approaches and the modern judicial system.

Challenge

Another issue of concern for focus group participants in Bara was that some customs are now illegal but still persist in society and cause poor people to suffer. The *Haliya* system (domestic labor with low pay) in Bara, as well as *Kamaiya* (bonded laborers) and *Kamlari* (girl slavery) in Dang and Bardiya were compared to an oppressive and exploitative feudal system.

During the focus group, a man and woman argued about the reservation quota for women. The man challenged the legal provision of 50% women representation and said it

does not work. He said, "In *Ban Upabhokta Samitee* (forest user groups, or village authorities who control the usage of forests) there are women-led programs where corruption is rampant. Women are not capable of doing their jobs. Only making (women's quota) a legal mandate will not improve their status." The woman replied that males created the corruption scandal to make women look bad. She claimed that males never want women to be successful.

During the focus group discussion in Bardiya, the participants were critical about decision of the Tharu Welfare Assembly (*Tharu kalyankarini Sabha*) to ask every Tharu to be reported as Buddhist in the Nepal Census. Tharu were originally Hindu dominated and still majorities of Tharu are Hindu. Therefore, they did not obey the decision of the *Sabha*. Individual interviewees never brought up this criticism. Only focus group participants in Bardiya brought this up.

Findings from Researcher Observations

The researcher observed participants' culture, traditions, celebrations, festivals and rituals, their interactions and conversations, inter-personal conflict dynamics, women's roles in family and community, and elders' roles within the decision making process of the model. The researcher also observed political protests in Bara launched by Terai-based political parties with Tharu members during the constitution promulgation period (September 20, 2015). This observation supports the Tharu identity, security and self-governance needs.

The observations were conducted from February 2015 to February 2016. These observations yielded the following results.

Gamala Meeting

The researcher went to Bara Sapahi to observe the *Gamala Panchayati*, a village assembly meeting. The *Chaukidar* (messenger) called the meeting as instructed by the *Mukhiya* by visiting door-to-door in the village. The researcher observed how the villagers conducted their meeting. The researcher observed non-Tharu *Pahadiya-Brahmins and Kshatriyas* were also invited to the meeting. Some women, children and elders were in attendance. In the meeting, the *Mukhiya* welcomed all participants by a greeting (*Dhog lagu*, Tharu greeting equivalent to Nepali *Namaste*) and an offering of tea. Then he asked *Sachiwa* (secretary) to take minutes of the meeting.

Firstly, the *Mukhiya* opened with a discussion about a land dispute between members of the Road Construction Committee and a landowner farmer who filed a complaint about a road built on his land. Each party shared their issues and concerns and presented witnesses who spoke. Then the *Mukhiya* and his committee carefully reviewed the issues, discussed and decided. They forgave the Road Construction Committee members, considering that they acted for the benefit of the villagers. They said that while it is true that the farmer's legal rights may have been violated, the road was constructed to benefit everyone. Then they put forward an option that if the farmer wanted to sell his land at a value higher than the market price, the *Mukhiya* and other local leaders would make sure his land would be sold fairly. Both parties accepted the decision, concluding the dispute.

Because the researcher observed a *Gamala* meeting that doubled as the annual assembly of all villagers, some additional agenda items for discussion were presented:

1. The repair of the road from the *Sapahi to Bhaular* villages

2. Fundraising for *Bramthan* puja, a ritual put on every five years

At the meeting, it was decided to finance repair of the damaged road to *Bhaular* by each household (*Ghardhuriya*) offering a volunteer to serve as long as it takes. For the performance of the *Bramthan* puja, each household will donate 100 rupees.

Tharu Kalyankarini Sabha Office Meeting

The researcher visited the *Tharu Kalyankarini Sabha* (Tharu Welfare Assembly) at its central office in Kathmandu. Although this institution is not directly involved in the conflict resolution process at the village level, the researcher sought to evaluate the roles and functions of the organization in maintaining Tharu unity. The Tharu *Kalyankarini* is an umbrella organization of Tharu groups in Nepal, established in 1949 to preserve Tharu culture and protect their rights. The *Sabha* used to be called *Sabha Chaurasi*, which fought on behalf of the Tharu community against injustice and the government then in power.

The *Sabha* has 24 district offices, an overseas office in Kuwait and a central office in Kathmandu. It publishes a magazine known as *Tharu Sanskriti* (Tharu Culture), which is not published on a regular basis due to the lack of financial resources. The *Sabha* mainly focuses on reviving festivals and rituals of Tharu and making rules to govern members of the Tharu community. It plays an important role in promoting Tharu culture and representing Tharu community in several forums, including governmental. It organizes the celebration of the *Maghi* festival in Kathmandu every year in mid-January.

The *Sabha* is instrumental in uniting Tharu communities, its core mission. The organization has played an important role in education and social reforms of Tharu community. Its focus is on eliminating evil customs (such as accusations against women

considered to be *Boxi*) and discovering opportunities for Tharu community to prosper. Elites and rich Tharu have historically dominated the *Sabha*. Despite its key role in cultural reforms, this organization does not reflect the interests of poor and disadvantaged Tharu living in remote villages far.

Maghi Celebration

The researcher got an opportunity to observe *Maghi* Celebration in Bardiya and the role of this festival in the conflict resolution process. The researcher went to Basgadhi, a Tharu village, in mid-January (or by the Nepali calendar, in *Magh*, from which the celebration derives its name). Based on a huge crowd taking part in the celebration, it was apparent to the researcher that *Maghi*, the new year of the Tharu community, is important and popular. *Maghi* is regarded as the festival of reconciliation and solidarity, bringing tolerance and mutual understanding to the members of the Tharu community.

On *Maghi* eve, Tharu people of all ages celebrated by eating traditional food such as fish, *Ghooghi* (crayfish) and drinking liquor. During *Maghi*, elders gave gifts to the younger generation. The second day of *Maghi* is known as *Maghidewani*. During this time the researcher observed the *Maghidewani* tradition in which the *Barghar* is appointed. In this case the current *Barghar* was selected by consensus. Everyone raised their hands and indicated their vote of support. *Maghidewani* is also reserved for the resolution of conflicts in the community, but there were none on the agenda to discuss. However, the researcher confirmed that if villagers had any conflict related issues, they would be addressed in a community gathering during *Maghidewani*.

According to participants, people visit elders to receive blessings because they believe passing the tradition and culture to the next generation is essential. Like the rituals of other indigenous groups, Tharu's *Maghi* festival brings villagers together and unites them in a single pursuit of peace, happiness and fraternity. This festival is regarded as one of reconciliation and solidarity, bringing tolerance and mutual understanding among the members of Tharu community. The researcher found that people celebrated this festival with much entertainment including music, song, dance, and decorations. Those who were out of town, even out of the country, join their family, friends, and community to celebrate. People forget past disagreements and broken relations and reconcile.

During the *Maghidewani*, conflict resolution process also takes place where *Matwan-Barghar* uses his/her negotiation skills to achieve a win-win resolution. For example, when someone requests separation from their household, the *Matwan* asks the person(s) to wait until *Maghi* in the hope they can resolve his/her household dispute themselves, instead of bringing it to the *Barghar-Mukhiya*.

Achhat Herna / Pati Baithana Rituals

To verify the important role of rituals in healing and conflict resolution, the researcher observed the *Achhat Herna* (also called *Bira Herne*) process in Dang. First, villagers gathered inside the residence of the sick person. An opening ceremony created the space for recovery and healing. The *Guruwa* chanted mantras. At the start of the *Pati Baithana* (healing step), he lit an oil lamp and placed it near a wall in the sick man's room. Rice, a plate, mantras, and lamps are symbols of recovery and healing used in the ritual.

After the *Gursurawan* (mantras chanting), the *Guruwa* performed the *Acchat Herna* (*acchat*, literally, "rice") ritual in which rice granules are categorized as odd or even. Through this the *Guruwa* then discovered the reason for the sickness. The *Guruwa* pronounced the name and address of the sick person and invokes an unknown spirit: "Who are you, deities, ghosts, or any other evil spirits responsible for making him (a male Tharu) sick?" The *Guruwa* concluded a ghost made him sick. Then the appropriate god was offered liquor in a cup and asked to heal the patient. Apart from individual illness, the researcher was informed that the *Pati Baithana* was also used to provide healing for victims traumatized by the 10-year long Maoist conflict.

Mother's Group meeting at Sapahi, Bara

A meeting of the Mother's Group was observed by the researcher to understand women's roles in the home and community. In this case, women discussed a dispute about the division of house chores between a mother-in-law and daughter-in-law who came to the meeting. The group was able to mediate a compromise after providing a kind of counseling service. Most in the group said few words but a few spoke more openly. This observation exemplifies the new practice in which women seek to handle their own conflicts and issues. Only as a last resort the dispute may be referred to the *Barghar-Mukhiya* model.

Faguwa (Festival of Colors)

The New Year for Tharu of eastern and mid-Terai is celebrated during *Faguwa*. (And takes place one day after the full moon in February or early March). The New Year for western Tharu is celebrated during *Maghi*, which takes place about mid-January. *Faguwa* is the most popular festival for the eastern Tharu community and is well known

even beyond. It celebrates spring and the victory of good over evil and has religious origins in Hinduism. People celebrate by eating traditional food, drinking liquor and throwing colored powder are its distinctive characteristics. (Westerners associate Festivals of Color and the throwing colored powders with *Holi*, the Hindu name for *Faguwa*.) Landlords appoint their *Haruwa* (farm laborers) and *Charuwa* (animal herders) at during that time. During the *Faguwa* festival in Bara, *Mukhiya*, *Sachiwa* and other village leaders and functionaries of the model such as *Chaukidar* are appointed. This compares well to customs in the western zone when the *Barghar* is appointed (or reappointed) during *Maghi*.

People used different colors to show their love and affections to each other. Traditional *Faguwa* songs were sung and people danced together. Tharu people, especially women, had prepared for weeks to welcome the *Faguwa* into their home. Preparation of foods, liquor, and pig or goat meat were arranged in advance. The Tharu use the festival to build unity and harmony, it has also the significance of bringing people together for reconciliation.

Mathwa Puja Ritual

The researcher observed the *Mathwa Puja* in Sapahi, Bara district during his field study. This puja is meant to appease *Indra*, Hindu god of rain, and ask for a bountiful harvest. Women do not normally plow, except during the time of drought when they plow the field as prayer to Indra for rain. The researcher observed that mostly married women were plowing, followed around the village by a procession of other villagers asking Indra to help them avoid drought by sending rain. Villagers said that afterward, the *Mukhiya*

and his committee would discuss and resolve any recent community conflicts. However, when the researcher was present that day there was no dispute to be brought up.

Gurai Ritual

The researcher attended the *Gurai* ritual in Bardiya district in order to observe firsthand role of this ritual in conflict resolution. It was observed that two types of *Gurai* worship were in practice, *Durya Gurai* and *Harya Gurai*. *Durya Gurai* worship occurs from April to June, and takes place in their deities' temples. This worship is believed to prevent endemic diseases and maintain peace in the village. *Harya Gurai* is performed during the month of August to maintain the prosperity of farmers and their crops. The flowers, eggs, rice, and water were used in the rituals.

Each *Ghardhuriya* (household) contributes cash or in-kind (such as labor, or flowers, etc.) to perform the puja. The statues are decorated in different colors. With all preparations done, the *Deshbandhya Guruwa* brings statues of the gods and goddesses in a basket and leads the procession while villagers follow him. The *Deshbandhya Guruwa* and the *Chirikiya* take a holy bath, each takes off his hat and chants the mantra aloud saying:

> All you deities we have invoked and invited you here to our puja. We worship
>
> you to the best of our knowledge. Please be happy and take away our troubles.
>
> The *Deshbandhya Guruwa* asks forgiveness from you gods if mistakes were made
>
> in the past. Gods, we are performing this puja by digging these four holes and
>
> offering you four eggs.

Because so many villagers were observed to join this ceremony and seek forgiveness, it seemed to bring social harmony to the community and increase understanding among villagers.

The large turnout of villagers of all ages witnessed by the researcher demonstrated the continued popularity of *Gurai* worship rituals as an affirmation of shared identity. In Tharu society, ritual symbols are related to protection from endemic disease and other forms of upheaval.

Findings from Archival Documents Review

The researcher collected and analyzed by visiting in person the archive documents and archival materials about Tharu culture and traditions relating to the *Barghar-Mukhiya* model practiced in three research sites. More than 1,059 pages of documents, books, and government records, and one film were reviewed. These reviews yielded the following results.

"Tharu As Pioneer Cultivators of the Terai – Kings of Nepal and Tharu of Terai (Panjiar Collection – 50 Royal Documents), 2000, 210 pages"

In this book Tej Narayan Panjiar collected the Royal Stamps issued during the regimes of the Shah and Rana rulers addressed to Tharu local leaders. According to the book, a collection of 50 decrees, the Tharu were the original inhabitants of the Terai region. In those days, kings had given Tharu approval for unlimited use or ownership of land in the Terai in return for paying minimum land tax in kind or whatever Tharu could manage. Then kings had appointed *Talukadar or Patwari* (tax collector) to collect tax from the communities. The Royal Stamps recognized the indigenous model, including the roles of the *Guruwa* and *Matwan*. They also recognized the *Guruwa* in traditional the

healing system and role of local Tharu leaders, *Mukhiyas and Matwans*, to maintain peace and harmony in the community.

"Tharu Loksahitya, Itihash, Kala Ra Darsan (Tharu History, Art and Philosophy) By Ashok Tharu, 2007, 355 pages"

Ashok Tharu, the author, is a respected Tharu leader in Dang District. He has been actively involved in the promotion and preservation of Tharu culture and literature for 25 years. According to the author, the *Chaudhari* position was abolished after the regime of Jitendra Bahadur Saha (early 20th Century). The Tharu who once lived in Dang district were known as *Dangaura* Tharu. After, they started living in Banke, Bardiya, Kailali, Kanchanpur, Kapilwastu districts of Nepal and even in the Bhawar areas of India. According to him, the culture of Tharu of the eastern Terai region has been greatly influenced by Indian culture. But the more original form of Tharu culture can be found amongst *Dangaura* Tharu. Some additional cultural variation can be found in two valleys of Dang District.

The author discusses the Tharu's law regarding punishment. According to him if someone steals or commits a crime, victims are compensated for the damage in cash or ask for *Khara*, a tradition of compensation in the form of a pig, a chicken or sheep and a party for all villagers. Tharu still avoid notifying the formal system in all legal issues. Mr. Tharu talked about Tharu folk literature based on the Hindu *Mahabharata* including the *Barkimar* ballad, a song and dance performed during the *Dasara* festival. It recounts the *Mahabharata* story in which Lord Krishna and Arjuna dialogue about the duty of human beings. The main point of the dialogue is whether Arjuna as a warrior must fight against his relatives. Krishna instructed him to do his duty and follow Dharma.

Mr. Tharu also talks about the *Guruwa*, the traditional healer responsible for the performance of rituals and puja that prevent conflict and maintain peace and harmony in the community. *Deshbandha Guruwa* is the senior *Guruwa*; he performs puja and rituals within one entire *Praghana* in Dang District. The *Guruwa* knows the limits of traditional treatment. His rules, the *Gurai*, are passed down to the next generation orally. Until 1950, the *Guruwa* was also the village tax collector. Even today, many Tharu believe that if women learn the *Guruwa*'s healing methods and other responsibilities, then they would abuse them, i.e, behave like a *Boxi* (witch). Mr. Tharu also discusses *Gurubabak Janmauti, a folk epic*, which describes the creation myth of the Tharu people. In the myth, the *Guruwa* is the First Tharu.

The *Guruwa*'s methods have incorporated modern medical treatment practices such as diagnosis, prognosis and therapy. Historically, *Ghanpat Guruwa* was the Tharu who developed the traditional, indigenous ethno-medical system for villagers. Any medical issue comes first to the *Guruwa* before villagers go to the medical doctor. Nepal has many poisonous snakes; about twenty thousand people suffer snakebites every year in the Terai area and about one thousand die because of it. As traditional healers, *Guruwas* have treated snakebites using indigenous knowledge and medicinal plants, an important fact since many villages are far from hospitals. The author thinks *Guruwas* could play an important role in reducing snakebite mortality if their profession was recognized and protected by the government.

Findings from the Film, *Burhan*

Mr. Nityananda Sharma, an expert on Tharu culture, wrote the screenplay for the film *Burhan*. Ajit Lamichhane was the producer and the film was released in 2006.

Burhan is the place where Tharu go to live when drought or exploitation from so-called upper cast hills people reduces their income and they're forced to leave their village. The film depicts the real life experiences of the Tharu community in Dang, but represents the society, culture and beliefs of all the Tharu community of Nepal. Most importantly, it describes the *Matwan's* societal role dealing with the following issues that exist in the community.

Rituals

The film dramatizes the importance of Tharu rituals to maintain social cohesion and harmony in the community. *Bhuiyar* is a kind of temple where Tharu believe that gods and goddesses live to help community members. Because the villages have *Bhuiyar*, they must also have a *Matwan* (priest and village chief).

The *Gururwa* performs all kinds of rituals, including *Pati Baithna*, a healing and treatment method used when community members become sick and injured. In due course, *Guruwa* suggests that the sick person needs to have a puja (ritual) performed in his house to get well (*Badka puja pujeke pari*). The film also portrays the traditional widow re-marriage practice (i.e, levirate) in which the younger brother married his sister-in law after his elder brother died an untimely death. Widow remarriage is allowed in Tharu tradition and culture, unlike other Hindu communities.

The film depicts the killing of a pig for a feast wedding celebration. It is cooked and eaten along with plenty of local alcohol made in the village using traditional herbs and spices. After completing the wedding, the bride and broom go to the *Matwan*'s house to receive a blessing since he is considered as a guardian and leader of all villagers.

Class Struggle

In the early 1950s the malaria epidemic was eradicated in Terai with the help of the United States, under USAID's Malaria Eradication Project. Following this, thousands of *Pahadiya* people (of Hills origin and higher caste) migrated to Terai and in this movie, one *Patwari* (a rich tax collector) exploits innocent Tharu. Eventually the *Patwari* becomes a rich landlord and controls a huge volume of Tharu land. His son sexually exploits the innocent daughter of the *Matwan* and gets her pregnant. To escape embarrassment, the *Patwari* forces the girl's family to marry her to a poor Tharu boy. Eventually, the innocent *Matwan* with all his fellow villagers move to another place called '*Burhan*' leaving their homeland behind due to the exploitation by the landlord-patwari.

Maghi Process (Festival)

Maghi is the new year of Tharu Community, which falls on January 15 or 16 as per Nepali Calendar. It is also called *Maghe Sakaranti* (First Day of *Magh* month as per lunar calendar). In the *Maghi* festival, villagers make annual plans and rules for the entire year, and select new *Agahwa* leaders by consensus, majority votes or occasionally by lottery system. This is also the time for division of households, though the *Matwan* generally suggests that those who want to separate from the extended family should not rush to separate because of family reputation issues. Likewise, in the film, the family that wanted to be separated was requested to wait until the *Maghi* could have a meaningful discussion with community members and families. There is a proverb in Tharu "*Bhai Phute Gabar Lute*" which means if a joint family structure separates an outsider will take advantage of the situation. The film reminds the audience about children's responsibility,

especially those of sons, to meet parents' expectations to be educated, become successful and keep ancestral prestige and honor intact.

In the last section of the film many Tharu members are shown being forced to leave their villages, due to natural drought and exploitation from the *Patwari*-landlord. The last scene is heartbreaking. It shows the Tharu headed to the *Burhan* for refuge, for a future of scarcity and fear.

"Tharu Indigenous Knowledge and Practices: A Comparative Analysis with Social Inclusion and Exclusion Theory by Gopal Dahit (2009)"

Gopal Dahit (2009) interprets what it means to be a *Matwan, Barghar* or *Mukhiya*. According to him, the head of a village is the traditional position of Tharu and regulates all the affairs of the village. The villagers select him/her in the month of *Magh* (Jan. 15 –Feb. 15), usually on the first day of *Magh*.

According to Dahit, *Barghar-Mukhiya* model has a hierarchy of assistants such as *Assistant Barghar, Likhandariya, Chirakya, Chaukidar* (messenger), which are elected in *Maghi*. He claims, as Ramananda Prasad Singh did, that Tharu are the descendants of Lord Buddha and Asoka the Great. According to him, some ancient artifacts and cultural patterns link Tharu with the Lord Buddha. He further states that Tharu were once rulers of Nepal and India, claiming that the model is not a new phenomenon, but it has been in practice for centuries.

He describes the *Khyala-Jutela*, the legislative body of villagers in Dang and Bardiya, which makes rules for the village. The model is slowly becoming more inclusive, as women now are allowed to participate in the *Khyala-Jutela* meeting. People from outside the Tharu *Jat* (outside the Tharu caste or non-Tharu) are also encouraged to

be a part of the *Khyala-Jutela* process. Dahit reiterates that the *Barghar* acts as a judge when social rules are violated. The *Gardhuriya* (a household) consults the *Barghar-Mukhiya*, who provides solutions for the concern or crimes, etc. *Barghar-Mukhiya* also helps the community members with their economic needs, he is a negotiator, a facilitator and a judge for the whole village when dealing with social and economic justice, and resolving interpersonal disputes such as marriage and divorce.

Farming has been the main occupation of Tharu community for centuries. Tharu people have established the *Kulapani Chaudhari* institution in Bardiya and Dang and *Gumasta* in Bara in order to maintain smooth management and efficient regulation of affairs of the irrigation system. *Kulapani* and farming systems are directly linked with regulating and managing Tharu's main profession. *Kulapani Chaudhari-Gumasta* is the highest position in the system responsible for overseeing management and care of the whole irrigation system. Constructing dams, making canals and distributing water to all farmers are the primary duties of the *Kulapani Chaudhari-Gumasta*, assisted by the community labor system. The tenure of these positions is the same as *Barghar* and *Mukhiya*.

He states the *Barghar-Mukhiya* is an important part of Tharu identity. Modernization and interference of *Pahadiya* (migrated people from Hills) and Indian (emigrated from India) cultures have undermined Tharu identity. Tharu youth lack awareness about the importance of their own culture and social systems. Dahit also explains the administrative, leadership, ritual, judicial, and unity roles of the *Barghar-Mukhiya*. He clearly outlines the Tharu organizational structures, including

family units, irrigation management and village governance. He also explains the roles of *Guruwa* in preserving traditions, maintaining peace and harmony in the community. According to Dahit the spiritual dimension of the model establishes and restores impaired relationship with God, the spirits, ancestors, family and neighbors. The goal of the model is to rebuild social harmony and peace in the community. Spiritual healers such as *Guruwas* play critical roles in conflict resolution at individual, family and community levels. Rituals performed by these healers may use herbs, animal sacrifices and/or water.

"Folklore and Folklife Study: A Survey of Living Cultural Heritage of Nepal (Publication 6, Tharu Folklore and Folklife, Nepali Folklore Society Kathmandu Edited by Tulasi Diwasa and Govinda Raj Bhattarai – 2009"

The book covers the model as practiced in Dang. The *Matwan* is the village chief in the District of Dang. He is in charge of performing cultural, legislative, economic, electoral, and religious functions in the village (Diwasa & Bhattarai, 2009, p. 96-97). This is a hereditary leadership position of the village. During the Rana and Shah regimes, before the restoration of democracy in 1950, the *Matwan* was a government-recognized position that had political, economic and social authority in the community. Nowadays, the new *Matwan* continues to be chosen during the annual *Maghidewani* celebration. The eldest son of the outgoing *Matwan* is chosen for next term (Ibid). The *Matwan*, in consultation with *Agahwa and Ghardhuriya*, enacts rules for the entire village. *Guruwa* is the traditional healer. *Guruwa* knows his limitation of traditional treatment. Many *Guruwas* are dying because of the alcohol and eggs that they must accept and consume while treating patients. All rules and knowledge of *Gurai* are passed to the next generation orally.

The *Agahwa* is the chief of the village (headman) and the leader of the

Ghardhuriyas (households) in Dang. The *Agahwa's* main responsibility is to supervise

the work of *Ghardhuriyas*; they support each other's duties. The *Agahwa* provides

leadership in irrigation and development projects for the village; he/she is accountable for

functions such as maintaining social harmony in the village and assists the *Matwan* in the

performance of cultural and ritual duties. The *Matwan* is the counterpart of *Agahwa* and

responsible for cultural and religious functions. All Tharu are not eligible to become a

Matwan. Only members of the *Deshbandhya Bangal* or *Gurvan* can become the *Matwan*

(selection takes place during *Maghidevani*).

In the past, Tharu people normally had an extended family system, with up to a

hundred members in a family. But due to the migration and influence of *Pahadiya* and

Indian immigrants, family size has been reduced. The joint family system is

hierarchically divided into different roles. The leader is the *Gharduriya*, who is male in

most cases, though a female chief of the household is known as the *Ghardhuriyna*. The

Gharduriya oversees the family and its social-cultural duties. The primary duties of the

Ghardhuriya include resolving minor household disputes, educating children,

maintaining unity and initiating family agricultural works.

The book also describes about the role of the *Barka Naacha (Dance)* in conflict

resolution. The Tharu depict the *Mahabharata* episodes in their dance, called the *Barka*

Naacha (Dance). The song, which accompanies the dance, recounts the *Bhagavad Gita* in

which a conversation about Duty and Dharma between the Lord Krishna and his devotee

Arjuna takes place. Lord Krishna encourages *Arjuna* to take up arms against *Kaurava*

(bad people, i.e, cousins and uncles of *Arjuna*). Eventually *Arjuna* accepts Lord Krishna's

advice. The dance is recorded in the documentary film financed by Swiss researchers Kurt Meyar and Pamela Duel and directed by Dipendra Gauchan in 1999.

These roles are clearly set so that conflict is unlikely to occur. If conflict does arise among family members, the head of the household has primary authority; however each family member has an equal right to share their views. If the conflict cannot be resolved at the family level of organization institution, the *Barghar-Mukhiya* model takes over and collectively resolves it.

Ritual is a tool of conflict transformation. It can be used for good or bad purposes. Ritual occurs in a unique social space, set aside from normal life, communicates through symbols, senses, and heightened emotions, and marks and assists in the process of change. Most of the Tharu people believe in the existence of super natural powers. *Dangaura* Tharus mostly have a practice of enshrining deities in the temple (*Bhuiyar*). Some worship practices are common among the Tharu who live throughout Nepal, but some remain unique from district to district.

Chapter Summary

This chapter presented the findings for a case study that examined the conflict resolution model of Tharu community in Bara, Dang and Bardiya districts. The results of one-on-one interviews with 38 participants, two focus group discussions with 30 participants, researcher observations of 8 community meetings, festivals and rituals, and 5 reviews of documents including the film *Burhan*, generated six themes (discussed in the next chapter), which become the theoretical framework of Tharu *Barghar-Mukhiya* Indigenous Model.

Research questions sought to examine the model's processes, its decision making approaches, the impact of *Barghar-Mukhiya's* decisions in the Tharu and Non-Tharu community, the role of festivals and rituals, the role of gender, religion, caste and age, and how the Tharu restorative practices and reconciliation processes could shape the overall model.

The findings from one-on-one interviews signified that practices at the three sites are mostly similar, i.e., open and transparent. Villagers including Non-Tharu and even untouchables are included to some extent. Traditional healing practices have preventive and curative aspects that are instrumental in maintaining peace and harmony in the community. The *Guruwa* system is integrated in villagers' ideas about conflict resolution. The interview findings also suggest that traditions inconsistent with human rights or considered immoral by modern standards are in decline. These suggest that people and people's attitudes are changing. These also suggest, as the researcher will discuss in the next chapter, that people's ideas about their model of conflict resolution are also changing. For example, villagers see the need to document conflict resolution processes to transfer the culture and tradition to next generation easily. Some changes are being made in structure and process of the model. The processes of the model are being documented now and that helps to transfer the culture and tradition to next generation easily.

However, some challenges such as mistrust of the formal system have led to some major crimes not being reported to the police that could prove detrimental to the ultimate peace and harmony of the community.

Focus group results are mostly similar to what interview participants expressed however, focus group participants raised some new issues no one brought up during the discussion such as women's exploitation or conversion of Tharu to Christianity and Bahai faiths. Since people's practices, behaviors and expectations are well structured, the responses from *Barghar-Mukhiyas* also seemed similar. All participants agreed on the point that Tharu's basic human needs such as their sense of identity, security and self-governance have been violated, that is the rules and expectations of the model have been transgressed. Their arguments were about how to make smooth relations with formal agencies so that peace and harmony can be returned to the community.

Researcher observations mostly corroborate the data from interview and focus groups. Researcher observations verified the important role of festivals and rituals, women and elderly, role of institutions such as Tharu Welfare Assembly (*Sabha*) in conflict resolution. The researcher observed how the religions, festivals and rituals have contributed, creatively, non-violently and positively in the conflict resolution. *Maghi* the biggest festival of Tharu has well-structured conflict resolution process where personal, interpersonal and group conflicts are resolved.

Documents and film review corroborated with the findings from interview and focus groups and the researcher observations. The Tharu film *Burhan* explored the issue of class struggle in Tharu community-conflict between *Patwari* and Tharu, landlords and farmers and rich Tharu and poor Tharu. The film showed the importance of rituals and festival such as *Maghi* process where *Matwan* in Dang resolves division of family property and others. Historical documents such as Royal Stamps have shown that *Rana and Shaha* rulers recognized the model. Authors Tharu, Dahit and Diwasa highlighted

festivals and rituals as important assets of the model. Tharu showed how the *Barka Naach (Dance)* connected Tharu culture with story of *Mahabharata*. The findings of Mr. Tharu's book conclude that the peace messages can be passed through the circle dances. Dahit has outlined the structure of the model in Dang and Bardiya, highlighted the importance of Tharu culture, festivals and rituals to shape the model. Mr. Dahit was also concerned about the untouchables and poor Tharu being converted into Christianity, Bahai and other religions. He is concerned about how to rediscover Buddha being Tharu. Mr. Diwasa and other researchers (in this book) have outlined the structure and process of the model. They also confirm the role of festival and rituals in conflict resolution.

The implementation of a qualitative, explorative single case study, data collection, and analysis procedures produced seven emergent themes that represent the outcomes of this study. The researcher validated the findings of the data through triangulation method, comparing results of interviews, focus groups, researcher observation, and archival documents. In the following chapter, the six emergent themes will be discussed and interpreted in relation to the research questions posed by this study, through an emic perspective. Moreover, the suggestions of the findings for policy and practice as well as the recommendations for future research will be presented in the chapter six.

Chapter 5: Discussion

Introduction

The purpose of the study was to investigate the Tharu *Barghar-Mukhiya* indigenous conflict resolution model practiced in the Bara, Dang and Bardiya districts of Nepal. A qualitative case study research design was applied to examine the phenomenon and seek answers to the research questions.

The study explored the experiences of *Barghar-Mukhiyas* and other Tharu leaders in the community and their traditions and customs on conflict resolution practiced at research sites through one-on-one interviews with 38 participants, two focus group discussions with 30 participants, researcher observations of 8 community meetings, festivals and rituals, and 5 reviews of documents including the film *Burhan*, conducted at research sites (Bara, Dang and Bardiya Districts) in Nepal. During the course of research, data sources yielded information about historical background, unwritten customary laws on organizational structures, and the process of conflict resolution, traditional restorative justice, reconciliation practices, roles of festivals and rituals, and roles of women, youth, Non-Tharu, caste, and religion.

This chapter presents an interpretation of the research findings (six emergent themes- roles of Rituals/ Festivals, Dialogue/Inclusion, Identity/Security, Structures/*Barghar-Mukhiya*, the Process/Reconciliation processes, and Participation/Acceptance of the model) in relation to the research questions and theoretical foundations posed by this study and at the end presents the framework of the model. Finally, each of the emergent themes is explored and interpreted as a coherent

model, and strengths and challenges of the model were analyzed, which is outlined at the end of this chapter.

Discussions and Interpretation of the Findings

The village chiefs *Barghar*, *Mukhiya* and *Matwan* fulfill many roles--- leadership, ritual and planning and development of village, some dealing with conflict resolution. These roles are approved by tradition and culture. There are many indigenous Tharu traditional practices and customs for dealing with conflict resolution that are designed to facilitate *Barghar-Mukhiya's* duties as effectively as possible. These practices and customs are used to resolve individual, family, and group conflicts. They describe a vibrant and dynamic model that helps to build stability and unity among members of the community. The majority of interview and focus group participants confirmed that the model's goal is to reach agreeable resolutions of conflict for the concerned parties. The model has no circumscribed separation of powers, as found in modern states. Yet, it has a democratic structure, embodying similar three functional branches of executive, legislative and judicial found in modern states.

The model has been developed based on six themes emerged from the analysis and interpretation of the data. The rituals and festivals are the core theme and at the center of the model (see Figure 3 for visual representation of the Model). The other five themes are interrelated and connected to the central theme. The process and reconciliation aims to repair the relationships of the community members instead of punishing them. Dialogue and inclusion emerged as important themes, which take place during the rituals and festivals. Identity and security shape the core value of the model and influence Tharu people's relationship with outsiders such as *Pahadiya*, Indian

migrants and Nepal government. The high participation of villagers during the rituals and festivals helps the model to successfully function.

Emergent Themes

Indigenous traditions and customs of conflict resolution are the oldest and most familiar form of justice that has been practiced in the Tharu community. As in all forms of social justice, social cohesion, order, and resolution of conflict are core values of the model. Participants' accounts of current practices verified Volker's assessment of traditional practices of conflict resolution: "The indigenous justice models are largely free and voluntary, and the cultural practices and rituals give the community members a sense of identity" (Volker, 2011). Their underlying belief is that their traditions and customs give a forum to everyone in the village to participate to disclose facts, make offenders accountable, and bring reconciliation to affected parties.

Interview and focus group participants expressed the belief that their traditions and customs serve as the guardian or protector for them. They said they have trust and faith in their traditions and practices but feel unsafe with government. They affirmed their confidence in collective identity and providing a sense of security. Finally, their traditions and practices reflect their identity and self-determination.

Research findings explored six emergent themes: Rituals/Festivals, Inclusion/Dialogue, Identity/Security, Structure/*Barghar-Mukhiya*, Process/Reconciliation Processes and Participation /Acceptance. Findings revealed that the model has been instrumental in peacebuilding efforts in Nepal after the 10-year long armed conflict. In this chapter, the model is assessed for strengths and challenges. The model's core of restorative practices, forgiveness, reconciliation, consensus-based

decision-making, and use of dialogue circles is instrumental in transforming conflicts. Comprehensive and detailed data presented in chapter four are discussed, and interpreted as emergent themes with comparison to available literature.

Theme # 1, Peacebuilding and Conflict Transformation Rituals and Festivals Identified

In researcher's findings he sees that together, rituals and festivals seem to build peace and transform conflict in Tharu society. "Ritual occurs in a unique social space, set aside from normal life, communicates through symbols, senses, and heightened emotions, and marks and assists in the process of change (Schirch, 2005)." According to Schirch, ritual is a socializing activity, which can form, build and protect worldviews, and at the same time when the worldviews clash and conflicts arise, it gives new worldviews and avenues for solving conflicts (Ibid, p.99). This seems to exactly characterize how the researcher observed the way ritual takes place during the festivals, and festivals give people an opportunity for respite and recreation (Diwasa & Bhattarai, 2009, p.135). Tharu festivals contain elements of reconciliation, solidarity and unity and in them one finds principles of peace and conflict resolution (Ibid).

The researcher observations confirmed former research findings by Dahit (2009) and Diwasa and Bhattarai (2009) on Tharu rituals and festivals. These researchers explored Tharu customs and traditions, advocating for urgency of preserving them from extermination. However, none of the existing literature addressed Tharu's conflict resolution practices per se in the context of rituals and festivals as peacebuilding mechanism. Maslak's (2003) findings suggest that ethnicity and culture play important role in the educational participation decision-making. According to her religion is another

factor that influence on the decision-making process of Tharu on sending their children to School (Maslak, 2003, p.165-176).

Responses from interview and focus group participants when talking about the role of rituals and festivals in conflict resolution often used descriptors such as "cohesive society-holistic approach," "charity," "balance," and "peace and harmony". Themes of dialogue and inclusion, as well as identity/security, reappeared as connectors between the rituals and the conflict resolution process itself. Maintaining peace, order, and harmony in the community was believed by participants to be supported by rituals that demonstrate tolerance, compassion, and healing. Three categories, peacebuilding rituals, conflict transformational festivals, and transformation through traditional healing, emerged from data collected through one-one-interviews, focus groups, observations of some festivals and rituals and review of archival materials, including the film *Burhan*. It became apparent that identity and security were interwoven throughout these categories.

Peacebuilding Rituals

Accounts of participants' experiences with peacebuilding/conflict transformation included the use of family or community forums and traditional mediation, also noted by Melton (Melton, 2005, p.114). The model and its processes focus on resolving problems at the grassroots level through dialogue, as well as restorative and reparative measures, often carried out through rituals. The fact that many Tharu people are illiterate means the symbols and messages embedded in rituals are powerful influences.
Interview and focus group participants described model's proactive role. The role of rituals in the model and were strongly convinced in local peacebuilding. They reflected that even during the 10-year long conflicts in which the Tharu communities were heavily

affected. Ritual was the only reliable mechanism to resolve local conflicts and maintain peace. Through rituals, the Tharu community contributed to the local peacebuilding process.

Interview and focus group participants connected rituals to their cultural and religious identity. Based mainly on Hinduism, Tharu festivals, such as *Maghi, Faguwa* (*Holi*) and *Dasara,* provide a context of shared stories and concerns. Ritual is that they are believed to provide protection from illness or danger.

Gurai Rituals

A review of archival documents, including the film, and researcher's observations confirmed the significance of Tharu's rituals in peacebuilding. Concepts in data gathered from document review of Tharu Folklore and Folk life edited by Mr. Diwasa and Bhattarai (2009) were verified by the interview and focus group participants' remarks, as well as the researcher's observations. In Tharu society, ritual symbols are related to protection from endemic disease and other forms of upheaval. According to Diwasa and Bhattarai, the Temple is the holy space in which the *Guruwa* performs a ritual using flowers, rice, and water.

The study findings on *Gurai* rituals and its processes are supported by Diwasa & Bhattarai (2009). This ritual is believed to protect them from disease (Diwasa & Bhattarai, p.131). As observed in Dang by the researcher, the *Harya Gurai*, performed by *Guruwa* with villagers during August to ensure a good harvest. *Guruwa* uses flowers, water, wheat and oat (*jau*) and seeds such as sesame (*teel*) as the important parts of the ritual.

Diwasa and Bhattarai (2009) wrote that the Tharu of Dang are said to believe that the *Matwan*, *Bhuiniyarthan*, and *Deshbandha Guruwa* are respected almost as gods in the community and believed to keep children safe in the community through their grace, love, and compassion. Participants' remarks confirmed Diwasa's observations that leaders such as the *Matwan* and *Deshbandhya Guruwa* work with *Ghardhuriyas* (households) to schedule the *Gurai rituals*.

A sense of ownership is further strengthened by the requirement that each *Ghardhuriya* donates money toward the rituals (*pujas*). Though non-Tharu are not required to contribute, some do because they are also affected by the production of crops, and the wellbeing of the village. The shared ritual of asking protection and forgiveness from the gods can also be interpreted as cultivation of a harmonious relationship among villagers (Diwasa & Bhattarai, 2009, p.132).

Pig Killing Ritual

These rituals bring all villagers into a unique space where a dialogue takes place to rebuild the relationships. To this day, killing and cooking a pig to share with the community is sometimes used as a form of compensation for particular offenses. This ritual is also used as part of other ceremonies and celebrations, such as a wedding. Serving this food, as well as *rakshi* (*Daru*, *Jad)* or some other alcoholic drink was mentioned frequently in connection with shared gatherings that restore or affirm relationships between villagers. In fact, foods such as chicken, rice or eggs are also offered to appease or stay in a good relationship with the god or goddess.

Dhogbhet **Ritual**

This ritual creates a sense of community. The ritual of *Dhogbhet* takes place during the *Maghi*, *Dasara*, *Astamki*, *and Holi* festivals to form or transform the people's identity and relationships (Schirch, 2005). No literature has previously touched on the dialogue process of *Dhogbhet*; this study has explored the *Dhogbhet* process as technique of conflict transformation.

Circle Dances

In many cultures, the circle symbolizes unity and protection and for Tharu people, the Circle Dances are peacebuilding rituals. Kurt Meyer and Pamela Deuel researched onTharu Barka Naach (Meyer & Deuel, 1998). The circle dances are thought to bring *Sukkha* (happiness) and decrease the *Dukkha* (unhappiness from clinging) as Buddhism teaches. No research or previous study ever explored Tharu's circle dances specifically as conflict transformation or peacebuilding tools. This technique is unique and can be compared with circle process in the conflict resolution field but more uniquely positioned as a tool. Dance and music embody the transformation of relationships between conflicting parties and maintain peace and harmony in the community.

Ritual Friend *(Mit-Yarjee)*

The goal is to bring two families together. The religious leaders *Dhami* (equivalent to *Guruwa*) in Bara and *Guruwa* in Dang and Bardiya perform the ritual. It is all about making friendship and bonding relationship. The significance of this ritual is to make new relations and reconciliation because sometimes if you have conflict with another person or ethnic group, ritual friend is helpful to resolve the conflict. No research or previous study ever explores Tharu's Ritual friend tradition as a conflict

transformation or peacebuilding tool, which transform the relationship and maintain peace and harmony in the community.

Conflict Transformational Festivals

Festivals bring reconciliation and conflict transformation. Festivals give people an opportunity for sharing, listening and visiting. It is a time for the family, children, and elders to interact together during *Maghi, Faguwa (Holi),* and *Dasara (Dashain.* These festivals affirm Tharu identity and unity.

The tradition of restoring victims and rehabilitating behavior of perpetrators are deeply rooted in Tharu village life. When social cohesion is broken, festivals restore wholeness to the individual and community. The majority of interview and focus group participants suggested that festival celebration is an important means of conflict transformation. The process brings people together to resolve their differences and misunderstandings after a few hours of dialogue. Villagers forget their disagreements accumulated over the whole year and rebuild new relationships after going through the *Maghi*, *Faguwa (Holi), Dasara (Dashain),* and other festivals and rituals' processes. Sharing food and alcohol encourages villagers to continue their dialogue until the resolution is achieved. A few important Tharu festivals are described below.

Maghi Festival

Maghi, the biggest festival of Tharu, the new year of the Tharu community; which falls in the Nepali calendar of *Magh* (January-February) of each year. This is famous for celebrating Tharu culture and over time, the *Maghidewani* celebration (I.e., the next day after Maghi) has served as an informal form of conflict transformation. Chaudhary (2011) and Dahit (2009) mentioned about the significance of the festival in family reunion as

well as maintaining harmony in the community. But study participants expand on their views and reinforce the role of festival of *Maghi* in conflict resolution. Nepalese society, including Tharu, is sociocentric, meaning it stresses cooperation and value of the community. This festival is regarded as one of reconciliation and solidarity, bringing tolerance and mutual understanding among the members of Tharu community.

Dasara

Dasara (in Tharu, *Dashain* in Nepali), the biggest national festival in Nepal, is a celebration of unity, harmony, and reconciliation. This festival brings unity, harmony, and togetherness in family and communities (Chaudhary, 2011). Chaudhary has highlighted the significance of *Dasara* in reconciliation and family reunion. Dahit (2009) also pointed out the importance of *Dasara* in reconciliation, but participants even further reinforced the importance of *Dasara*, since it is a celebration of the victory of good over evil, reconciliation of families, communities, and nations is believed essential. The core objective of the festival is to celebrate, recite and at the same time bring reconciliation. In the tenth day of *Dasara*, villagers receive *Tika (rice and white color mixed that put on forehead)* from the elders along with their blessings. Elders pass on best wishes for joy, peace and prosperity for the individual and his family. Tharu celebrate *Dasara* with eating traditional food and performing traditional dances, such as *Sakhya Naach* and *Hurdungwa Naach*.

Faguwa (Holi)

The Tharu use the festival to build unity and harmony, it has also the significance of bringing people together with reconciliation. Several authors such as Dahit (2009), Sharma (2013); Tharu (2006); and Diwasa and Bhattarai (2009) have discussed the

importance of this festival and how it is observed in the community. However, this study explored the role of *Faguwa* (holi) on peacebuilding and conflict transformation.

Transformation through Traditional Healers

Sarwahari (2013) also researched in Dang district on the roles of *Guruwa* and *Gurui* rituals in traditional healings. According to him, some Tharu youths and non-Tharu community members believe that traditional healing techniques are primitive and outdated because these are based on superstitious beliefs. However, research participants in Dang district strongly believed that these healings and rituals (worships) give people satisfaction and positive attitudes towards each other.

The *Deshbandhya Guruwa*, in charge of each pragana (region) in Dang, is responsible for protecting the village and villagers from natural calamities and epidemics and is the highest leader among *Guruwas*. He is responsible for conducting certain pujas: Dhuriya, Lawangi, Hareri, Bagar, Barka, and Bhajahar. Others rituals performed by these healers may use herbs, animal sacrifices, and/or water. The *Guruwa* performs local rituals such as *Gurai* and *Patibaithana*. Tharu spiritual healers play critical roles in conflict resolution at individual, family and community levels. Traditional healing practices are the tradition of Tharu but are not influenced by Hindu traditions. *Ghanpat Guruwa* was a historic person who developed the traditional, indigenous ethno-medical system for providing treatment to villagers. His tradition is one of the important parts of the Tharu civilization (Tharu, 2007, pp. 31-32 & 35-36). Today, the *Guruwa* system is not only a traditional healing system but has incorporated modern medical treatments including diagnosis, prognosis, and therapy methods.

Tharu (2007), Dahit (2009), and Diwasa and Bhattarai (2009) observed traditional Guruwa system as an inevitable tradition of Tharu community and recommended eliminating threats against the Guruwa system. The participants further elaborated on the views expressed in the existing literature and reinforced the importance of passing the Guruwa tradition to next generation. As the researcher observed, the participants believed that traditional healers play a critical role in remote villages to protect people and maintain peace and harmony. Researcher believes that it is urgent to strike a balance between traditional medicine and modern medical practices in order to better serve the Tharu community.

The healing of individual villagers can be a shared experience and demonstrates the sense of collective involvement in the health of the community. *Achhat Herna* (or *Bira Herne*) ritual process was observed by the researcher in Dang in order to verify the importance of rituals in healing and conflict resolution.

Further evidence of the protective role of the *Guruwa* is his use of an ethno-medical knowledge system. All medical issues come to *Guruwa* first before they go to the medical doctor. In remote villages, it is especially important to have access to a healer who is close by, as illustrated dramatically by the practice of calling the *Guruwa* to treat frequent snakebite cases, rather than transporting patients to a faraway hospital. In Tharu villages, where hospitals are rare or nonexistent, having a trusted healer close by is important to people's sense of health and security.

Theme #2, Dialogue and Inclusion Identified as Instrumental in Conflict Resolution

The Tharu traditions and customs promote the values of inclusion and constructive and meaningful dialogue. This is based on the collectivist approach that

pursues the ideal of social harmony and peaceful co-existence. According to the findings

it is imbued with a culture of dialogue and inclusiveness. For example, peace and

harmony messages are exchanged as part of *Maghi*, *Faguwa*, *Holi*, *Dasara* and other

festivals and rituals such as *Bira herna*/*Patibaithna*, *Gurai* and Circle dances performed

during the major festivals. During the *Maghi and Holi* festivals a conflict resolution

dialogue takes place. During the *Gurai* rituals all members of the community participate

and engage in the rituals and dialogue of conflict resolution. Through the songs and circle

dances during *Maghi*, *Holi*, *Dasara*, *Faguwa* and *Krishnaastamaki* the messages of peace

and importance of Tharu traditions and customs are exchanged. Maintaining peace and

harmony in the village is the goal of the model. Participants clearly expressed that

conflicts are avoided and resolved through sincere and truthful dialogue during the

festivals and celebrations. This process takes energy and there may be arguments and

counter arguments made, but eventually consensus decision usually prevails. The

inclusion of women has been limited but is slowly changing. As reported by some

participants, women are now allowed to participate in the *Gamala-Khayala-Jutela*

meeting, though traditional roles and expectations still keep many women from attending.

As Dahit (2009) explained in his book, Tharu have been excluded and

marginalized from the mainstream Nepalese society for centuries. However, their

community values and practices are inclusive for all other groups and communities.

Women, *Pahadiya* (Hill), Indian migrants, and untouchables are included in the model's

processes. Dialogues are transformative and not controlled by *Barghar-Mukhiya*.

Participants have rights of controlling the process, sharing opinions, listening to all

views, and making collective decisions for the benefit of all community members.

According to Bellamy, the meetings are open for anyone who lives in the village. She noted that until recently women were not granted the ability to participate in *Khyala* meetings, but they are now welcomed to the discussion and even eligible to be elected.

The model is based on Tharu traditions and cultural practices; however, it is inclusive to other subgroups, such as (Dalits) untouchables, Muslims and *Pahadiya* (people of Hill origin) who live in the Tharu village. Residence in the same village provides someone a membership of the village (Tharu community) and he/she is included in the model's processes. It is not only a festival of reunion and community togetherness, they hold a conflict resolution dialogue where village chiefs and all villagers engage in a constructive and meaningful dialogue.

Galtung and Scott (2008) have highlighted the role of Dialogue Consensus Democracy wherein parties meet to express their positions equally and have an equal right to brainstorm with a goal of creative and constructive consensus resolution (Galtung & Scott 2008, p.21). Similarly, Ury (1999) talked about fostering genuine dialogues to promote mutual understanding and build relationships that can prevent escalation into violence (Ury, 1999, p. 135-39). But this research explored the Dialogue and Inclusion approach rooted in rituals and festivals that have been utilized by Tharu community for centuries. No other literature has ever pointed out the Dialogue and Inclusion aspect of Tharu indigenous model prior to this research.

Theme #3, Tharu Identity and Security Identified as their Basic Human Needs

Interview and focus group participants frequently expressed Tharu issues related to political, ethnic and cultural identity. Cultural identity and community solidarity are built and maintained to sustain the model. The majority of interview and focus group

participants returned to the idea that the Tharu are peaceful people because they value the principle of coexistence. They also reflected that Tharu community believes in a holistic and collectivist approach, built on the ideals of compassion, forgiveness and reconciliation. Participants also expressed a basic human need: a wish for everyone to live with dignity.

They articulated that because Tharu have less power in mainstream Nepalese society, compared to Indian and Hill migrants and landlords, their basic needs of identity, security and self-esteem have been threatened. There was a strong feeling that the government had discriminated against them for decades. Their self-determination and community autonomy have been undermined throughout Nepal's history. The opinions of these participants corroborate the ideas developed by Dahit and Diwasa & Bhattarai (Dahit, 2009, Diwasa & Bhattarai, 2009).

They were also concerned about the threats posed by government, Indian and hill migrants and landlords. Sigdel (2012) has pointed out the threat of double migration from Indian and Hill people for Tharu community in his study. According to him the influences of *Madheshi* (immigrated from India in the plain area of Nepal) and *Pahadiya* (People of Hill origins) cultures have attacked Tharu cultures, so they are facing a double social and cultural invasion (Sigdel, 2012). Tharu's language, culture, and religion are being influenced by migration of Indians and Hilly people into the Terai. Most of the Tharu interpret that influence as threat to their identity.

Singh (2006) and Dahit (2009) trace Tharu identity to Lord Buddha, presenting as evidence the similarity to Buddha's mother, Mayadevi, of clothing, ornaments and facial appearances. Tharu (2007) described Tharu's origin links to *Gurubaba,* the premier

Tharu. Sharma (2013) believes Tharu have been practicing Hindu and Nature worshipping traditions for centuries.

Maslak (2003) the author of "Daughters of Tharu" has highlighted the low participation of Dalits and women in the society. Tharu women were inferior to higher caste women in her research site Butwal of Nepal. Her findings have revealed that all Tharu have lower status than higher caste Hill Brahmins- Kshatriya. Yet, she concluded that since Brahmins-Kshatriya people encourage Tharu to send their children to school, Hill migrants are not a threat to the Tharu community (Maslak, 2003).

Despite the benefits, such as education, the research participants felt that Hills and Indian migration is an imminent threat to their identity. They associated the community with their sense of social identity and felt that preservation and recognition of their traditions and customs, i.e., the indigenous model existential. They reflected that their cultural and political identity has been threatened by not being recognized by the government and other formal agencies. Participants reflected their concern of the missionaries' work converting Tharu as an external threat to their traditions and customs (cultural identity), which is causing tension in some Tharu villages of western Terai. The researcher is extremely critical of missionaries coercively converting vulnerable Tharu.

Basic Human needs

Conflicts are at the center of human needs (Burton, 1987; Maslow, 1943; Mayer, 2000). Needs do not exist in a vacuum; our understanding is that people engage in conflict because of their incompatible needs, conflicts cannot be transformed or settled unless these needs are addressed in some way (Mayer, 2000).

Marx has pointed out that human history is the product of conflict between rich and poor. Poverty creates conditions where the actual ability to meet one's fundamental human needs is obstructed. There are clear indicators that poverty effectively fuels the violence created by Tharu's inability to meet their fundamental human needs. For example if Tharu's needs of self-governance were addressed, the violent events of Kailali on August 24, 2015 (8 police officers killed by Tharu protesters demanding a *Tharuhat* state with a new federal constitution) and other subsequent conflicts in Terai could have been prevented. As participants expressed, unless their needs are met, conflicts will intensify. As others indicated, poverty in the Tharu community shows that their economic needs are not addressed (Tharu's poverty is the clearest example that their economic needs are not being met).

This study supports the claim made by Singh (2006), Dahit (2009) and Gunaratne (2002) that Tharu from eastern to western part of Terai need an affirmation of their collective identity and sense of unity.

The Model Maintains Tharu's Sense of Identity and Security

According to Gunaratne, two Tharu organizations that greatly contribute to promoting and shaping Tharu's shared identity are Tharu Kalyankarini Sabha (Tharu Welfare Council) and Backward Education Society (BASE) (Gunaratne, 2002). Identity, security and unity within the diversity are core values of Tharu, which are pertinent to their survival in Nepal. Education, communication, and transportation are the factors that helped in connecting and bringing Tharu together from the east to west Terai of Nepal. Singh (2006) reinforced that Tharu were descendants of Lord Buddha. Similarly, Dahit (2009) supported Singh's thesis and related the Tharu with Buddhist identity. However,

neither Gunaratne (2002) nor Dahit (2009) and Diwasa and Bhattarai (2009) researched the *Barghar-Mukhiya* conflict resolution processes.

The land is integral to Tharu culture. The land is both a symbol of identity of Tharu indigenousness and the core in the development of the ethnic consciousness (Gunaratne, 2002). Participants expressed their frustration that how their lands were taken away by the Hills and Indian migrants. Participants also expressed concerns about their rights to fulfill their basic human needs, such as their survival needs of food, shelter, and education- identity, recognition, and safety - especially physical and economic security, communal harmony, peace, respect, self-realization, and self-esteem. Focus group participants felt people of Hill origins and Nepalese government perceive Tharu as physically different (they look more similar to Indians). This perception has led to their marginalization, exclusion and mistrust. Participants further said that there was mistrust between both parties (Government and Tharu). They further remarked that when they go to Kathmandu, *Pahadiya* people insult them calling "*Madheshi*" but in fact they are Tharu. There was a feeling that the government never acknowledged the Tharu as valuable contributors of Nepal.

The participants acknowledged that the federal structure of the new constitution is expected to allow all people to be independent and self-governed. Tharu argue their self-governance will mutually benefit also Hill (*Pahadiya*) people who live in Terai. Review of archival documents further addressed the importance of recognizing the unique and valuable role of Tharu identity in Nepal.

Interview and focus group participants expressed their concerns about threats posed by mainstream political parties and the government to Tharu tradition and culture

and their basic needs, especially security and self-esteem. Economic disparity and class conflict also contribute to their sense of insecurity, as typified by the landlord's oppression against the farmer. Some accounts told of oppression in the form of *Kamaiya*, *Haliya* and *Kamlari* systems, which have discriminated against and exploited the poor Tharu for decades. A focus group participant recalled how Tharu women's security and self-esteem needs were violated when males dominated and abused them, including the example of the *Pahadiya* landlord who sexually assaulted *Kamlari* while they were working at Landlord's property (focus group). This data was also corroborated by events in the film, *Buhran*, included in archival documents review.

Theory of basic human needs applies to the Tharu community since the interview and focus group participants felt that their needs for a sense of security, identity and sense of self-esteem were often violated by the government and other disparities of resources and status. In contrast, participants expressed their belief that the model has been the guardian or protector for them when their security needs were violated. They look to their local community as the one they can trust when they feel insecure. Interview and focus group participants expressed their concerns on how to protect their basic human needs including economic and gender equality.

The participants reflected that the constitution and the government must acknowledge that the legal and political system had discriminated against them in the past. For them, the importance of meeting their needs for self- realization and self-esteem are essential for them to feel strengthened.

Theme # 4, Participants Identified Traditional Structures and Roles

From the three sources of data --- one-on-one interviews/focus groups, document review and researcher observations- the code structure of the model emerged, became a category and then a major theme of the findings. Through descriptors such as "respect," "legitimacy," "experience, and "practical knowledge," integrity was implicit in responses to questions asked about the village organizational structure and its leaders. The interview and focus group participants expressed that people love, trust and respect their village chiefs and leaders known variously as *Barghar, Mukhiya, Matwan, Chaukidar, Agahwa and Guruwa*.

Research findings indicate that the model functions like three branches of government: executive, legislative and judicial.

Executive (Barghar-Mukhiya-Matwan)

The *Barghar* in Bardiya –*Mukhiya* in Bara or *Matwan* in Dang serves as heads or executives, ensuring that rules and decisions are carried out. Other positions such as *Chaukidar*, *Sachiwa*, *Guruwa* and *Kulapani Chaudhari* in Dang and Bardiya and *Gumasta* in Bara- all are involved in assisting the executives.

Roles/Responsibilities

The community through the traditions and the Tharu's annual meetings has apportioned duties and responsibilities of the *Barghar*, *Matwan* or *Mukhiya*. These duties are critical to smoothly manage and govern the community and its affairs. Accounts and descriptions of roles the village chiefs and their associates play, which frequently came up during one-on-one interviews and focus groups. The codes "leadership," "administrative," "judicial," "unity," "ritual" and "coordination" fall under the category

of roles, which are outlined below. Likewise, as noted in the document review, the film *Buhran* portrays the role of *Matwan* and *Agahwa* specifically. The accounts by Dahit and Diwasa (Dahit, 2009, Diwasa & Bhattarai, 2009) also touched on the key roles of *Matwan*, *Barghar*, and their associates. However, there was a lack of literature describing details on the entire structure of the model as guided by the traditions and customs. This study comprehensively explored the *Barghar-Mukhiya* structure. Some roles are more tangible or clearly defined; all are significant to conflict resolution smoothly, as described below.

Leadership and Administrative Responsibility

The participants of interviews and focus group expressed that overseeing routine transactions and use of shared resources for community members is one of *Barghar-Mukhiya-Matwan's* responsibilities, as these are connected to maintaining peace and harmony. Therefore, his/her role includes managerial, directional and executive duties. The *Barghar* or *Mukhiya* convenes meetings for planning and policy making. Planning is done for the development of the village such as constructing culverts, bridges, and linking roads, building schools, irrigation canals, and dams. Since Tharu livelihood is entirely based on farming, building canals (*Kulopani*) for irrigation is critical. Regulating and managing *Bethbegari* (volunteer labor) for community service on projects such as roads and canal construction is another important duty of *Barghar - Mukhiya*. In Bara district, villagers appoint *Gumasta* and *Chaukidar* for this duty.

The Tharu community has a tradition of working for collective values. People are united in the collectivist value that brings everyone together. Underlying all the official duties of the *Barghar-Mukhiya* is the ongoing responsibility for making sure all villagers

are united for a common purpose. Honesty and non-partisanship used to be vital in gaining respect and trust from the villagers to maintain village solidarity. However, they claim the traditional importance of the unity role has begun to deteriorate. According to the interview participants, nowadays Tharu people are divided based on political and religious lines in Tharu villages.

As an extension of the model's role in preserving order and security in the community, rituals are very important. *Matwan*, *Barghar*, *and Mukhiya* lead the selection process and supervise the work of the *Guruwa* and other traditional healers. The *Deshbandhya Guruwa* and his assistants perform rituals of healing. Making decisions about funerals and rites is also one of the ritual duties of the *Barghar-Mukhiya-Matwan*. More details are provided as part of the theme, "Role of rituals and festivals."

Dismissal

Dismissal procedures or provision for village chiefs or other associates did not arise during interviews and focus group discussions. However, it is obvious from the researcher's understanding that village heads are asked to resolve conflicts because of their knowledge, expertise and ability to deliver fair judgments. When people do not see that from the Chiefs, they cease requesting their services. There is no specific written provision about the dismissal but if Chief did something wrong which is inconsistent with established moral standards, he/she will not be called for their services again.

Legislative (Jutela, Gamala, and Khyala Assembly)

Jutela, *Gamala*, and *Khyala* are different names for the respective legislative bodies. All *Ghardhuriyas* and members of the community including, to some extent, women and youth have some input in meetings of the local legislative bodies. The

legislative body is responsible for designing plans, enacting policies and rules for the community members. The proposal of the new annual plans, rules and policies for the village is presented during the New Year *Maghi* in Dang and Bardiya or during *Faguwa* (*Holi)* in Bara.

Bringing people together for making consensus decisions by constructive engagement directly impact their community, which is a strong and effective practice at the research sites. Descriptions of conflict resolution, as well as other decision-making processes, were remarkable for their focus on community gatherings. Compared to distant judicial offices at the district or capital level, such meetings are more accessible and transparent in the village. *Gamala Panchayati* is the name for a general meeting of the whole Tharu village in Bara. *Khyala* is the legislative body, which makes rules for the villagers in Dang but it is called *Jutela* in Bardiya. All villagers gather in a certain place, usually the home of the current *Mukhiya* (village leader), to decide village issues and cases by consensus. People from outside the Tharu *Jat* (castes) are also encouraged to be a part of the *Khyala, Jutela-Gamala* dialogue process.

From participants' reports of collective decision making about so many issues, it can be inferred that the conflict resolution process might be strengthened through this shared experience of reaching consensus. The consensus-based decision-making practice of Tharu will be relevant in this critically divisive, partisan and competitive modern society. The consensus-based practice is the core approach of Tharu community, which strives to find a common ground to reach win-win resolutions.

Judicial (Barghar-Mukhiya & Samitee (Committee)

The judicial body consists of the committee along with *Barghars-Mukhiyas-Matwans* are responsible for delivering the verdicts. A committee is comprised of up to seven members who are responsible for finding out the facts of the case and delivering their opinions. *Barghar*, *Mukhiya* or *Matwan* also acts as a judge when necessary.

Judicial Responsibility

The *Barghar-Mukhiya-Matwan* acts as a judge if any of the customary rules are violated. Participants confirm that, as noted by Bellamy (Bellamy, 2009), it is still the *Barghar-Mukhiya-Matwan* who first hears the complaints. According to the participants, as well as researcher observations and document review, the judicial/ conflict resolution job includes hearing complaints, calling trial meetings, setting up a *Samittee* (mediation committee) for the disputing parties and announcing the verdict. Negotiating conflict parties to achieve win-win resolution is an important function of *Barghar, Matwan or Mukhiya*. They frequently negotiate with conflict parties to reach a mutually agreeable solution. It is obvious that they are doing integrated negotiation (win-win) even though they are not familiar with the western concept. The decision-making process is a collective action of all villagers, but the *Barghar, Matwan or Mukhiya* is the custodian or implementer of the decisions. For example, if either party needs help with economic needs, the *Barghar-Mukhiya-Matwan* oversees the arrangements. The main responsibility of *Barghar-Mukhiya-Matwan* is to facilitate an environment for both parties to find common grounds to compromise and reach mutually agreeable solutions (win-win resolution).

There was no comprehensive research on the topic; however, Bellamy (2009) studies the *Barghar* model of Bardiya to highlight the threats and opportunities of *Barghars*. However, she did not talk about *Mukhiya* of Bara, *Matwan* of Dang, or the role of rituals and festivals. She has highlighted the *Khyala* general meeting where *Barghar* is chosen to serve the villagers.

Theme # 5, Identified Win-Win Resolution and Reconciliation as Integral in the Process

The process is based on the bottom-up approach where every member of the community engages in the conflict resolution and reconciliation processes. Traditions and customs are the guiding principles, which focus on the consensus-driven decision-making; participatory practices and constructive and meaningful dialogue enable the participants to reach a mutually agreeable solution. According to Bellamy (2009), the process is transparent and democratic where all households are informed and invited to the meeting.

Win-Win Resolution

Habermas (1984) developed the communicative action theory, which promotes consensus-based decisions. Tharu have been practicing consensus-based and win-win resolution approaches since time immemorial. Consensus-based decision-making practices have been a vital tradition of the Tharu community of Nepal. The focus of the model is always on win-win resolution and finding common ground. Research findings confirmed the previous literature and research of Habermas (1984), Ury (1999) and Fisher, Ury, and Patton (2011) about applicability of win-win resolution and consensus-based decision-making.

Types of the Conflicts

The nature of conflict was identified as a category under the theme of process. Discussion of the model's process requires an overview of the nature of conflicts. The model is designed to investigate and mediate only cases that fall in the village territory. All kinds of conflicts except murder, rape and robbery are reported to the *Barghar-Mukhiya-Matwan*. Whichever disputes and conflicts cannot be resolved at the community level will be referred to the formal systems, i.e. police or court. Nonetheless, the police or courts send back to the village level for the resolution of some cases because they consider *Barghar-Mukhiyas* to be best able to handle issues like land disputes. Some participants responded there are times when villagers have avoided reporting major crimes to police for investigation and prosecution. However, a majority of interview and focus group participants confirmed that murder, rape, and robbery must be reported to the police. Fortunately, such cases seldom occur in the community. Frequent types of conflict are those between Hill *Patwari* landlords and tenant farmers, sexual abuses of *Kamlari* and the conflict between master and *Kamaiya, Haliya and Kamlari*. These can be seen as a form of class struggle, as Marx declared in his *Communist Manifesto*. Theory of Marxism truly applies in the situations because the class conflicts between rich landlord and poor farmers occur frequently in the village. Some interview participants recalled instances of women *Kamlari* being raped and assaulted by landlords, an occurrence which is also verified by Dahit in his book that was reviewed by the researcher. An example of such abuse is also depicted in the movie *Buhran* when the son of a *Patwari* landlord sexually abused and impregnated a Tharu girl. Although she is the daughter of a

Matwan in Dang, the *Patwari* father of the boy- saw her as too lowly for marriage to his son. These examples showed how class differences affect conflict in the villages.

Conflict Resolution Process

Much of the description of the model involved details about various aspects of the process, thus leading the researcher to develop it as a category. As indicated from interviews/focus groups, document review and observations analysis, the process can begin in two ways begin during the local annual general assembly meetings such as *Gamala, Khyala, and Jutela* where village chiefs and other associates are selected or any time a dispute occurs and a meeting is called to decide on it. The general assembly meetings sometimes deal with certain types of dispute; division of family is decided in *Khyala* meeting. Reconciliation must include the festivals and rituals when restoring harmony through rituals leads into the process for gathering.

The model deals with the all-criminal cases except murder, rape, and robbery and all civil cases in the village jurisdiction. The findings clearly indicate these major crimes are subject to police investigation and prosecutions because those cases are under government jurisdiction. However, the model is some time involved in mediating even those cases, since that has been normal practice in these villages throughout their history. The Marxist class conflict has been applied to analyze and understand the root causes of the conflicts, which are often related to inadequate resources, systemic violence, and discrimination against the indigenous groups in Nepal. Structural violence, direct and cultural, threatens to overwhelm the Tharu community. For this reason, conflicts between landlords and tenant farmers, conflicts with low-income untouchables and such class conflicts call for attention from the National legislatures. The majority of interview and

focus group participants expressed their optimism on guaranteeing their rights in Nepal's new constitution, which will help to legitimize the model.

Underlying Values and Approaches of the Process

Interview and focus group participants believed that the model is capable of confronting conflicts by utilizing integrative negotiation, aimed at reaching a win-win resolution. For example, in the case of credit transactions, the Tharu indigenous model can be more flexible and effective compared to the formal system. When an agreement or contract (*Kapali Tamsuk*) has expired, the formal system won't try the case, putting the creditor at a disadvantage. But the traditions and customs view resolution of the dispute as an obligation and duty, so it takes the time to work toward making a compromise between the parties. In this case, the principal amount will be reimbursed to the creditor and interest will be waived, which brings win-win resolution for both parties. The effective implementation of the decision is made possible in the model by making sure all parties agree to abide by the decision before the process begins.

All participants responded that love, harmony, and peace are the core of –*Barghar -Mukhiya* model. The Tharu are practicing democratic principles and the process is open to the public. Although reaching consensus is realistically a difficult task, they always try to reach a consensus decision. The theory of communicative action advocated by Habermas in Theory of Communicative Action, Volume II could be applied to consensus decisions made in the model (Habermas, 1984).

In the process, participants of the meeting engage actively, discuss the matter seriously, and investigate the truth. Truth telling is one of the components of conflict resolution process. Finding a mutually agreeable solution is the main goal of the process.

The tradition of reaching the compromise that is acceptable for both parties of the conflict is strongly upheld in the community. Whereas the whole community can be involved in the process, it is the *Barghar, Mukhiya or Matwan* who facilitates the process. The model's practices are process oriented, speedy and the cultural context plays a crucial role in determining the success or failure of the peace building processes (Volker, 2011; Dahit, 2009). The model reinforces the inclusion and participation of all conflict parties and their witnesses who are responsible for reaching a resolution. For example, during the *Maghidewani* festival, all *Ghardhuriya* (households,) including women and children, participate in the decision-making process; each participant has a right to speak in favor of or against the particular case or proposal. The opinions of the participants are valued when making decisions. *Matwan-* (village chief in Dang) or *Barghar* (Bardiya) or *Mukhiya* (Bara) ask all *Gharduriyas* during the meeting or outside the meeting, including women and their views about what should be done.

This consensus-based decision-making process creates ownership for each individual, motivating him or her to assist in implementation. The traditions and customs create community-focused outcomes that impact the whole village. Tharu traditional justice processes represent practical and viable options for bringing genuine peace and reconciliation in the community. Bellamy supports this finding saying that the ideal of common consensus decision-making fuels the effectiveness and legitimacy of the *Barghar-Khyala* system at community level (Bellamy, 2009, p.7).

However, the low participation of women, youth and untouchables are the challenges for the model, which needs to address constructively. The primary focus of conflict resolution is to reach consensus and leaders try their best to help parties reach a

mutually agreeable solution. They consult with the parties, sometimes requesting each one to give up some of their interests to accommodate the others. If consensus can't be reached, a decision will be made by majority vote. If voting is not accepted or not possible, a lottery system is used. The majority of interview and focus group participants consistently returned to the idea that Tharu are peaceful people and they believe in a holistic and collectivist approach, built on the ideals of compassion, forgiveness and reconciliation. The Tharu's collectivist approach also pursues the ideal of social harmony and peaceful co-existence.

This model also integrates the principle of communicative action theory developed by Habermass, in which decisions are made by consensus by efforts of the *Samittee* (committee) members along with *Barghar-Mukhiya*. The *Gamala, Jutela, and Khyala* meetings bind households to their community and culture. The *Barghar-Mukhiya* is authorized to perform social, economic, religious, and political functions. Dahit (2009) has briefly mentioned The *Gamala, Jutela, and Khyala* meetings and their impact in the community. He has outlined the goals and process of those meetings. No literature has outlined the detailed processes of the conflict resolution of Tharu community of Nepal prior to this research.

<center>**Reconciliation Processes**</center>

Bringing people together (sabkoakkattha karo)

The code 'bringing people together' occurred so frequently from the interview and focus group transcripts that eventually it became a category (supporting more than one theme). Bringing people together is one of the strengths of the Tharu indigenous model, which helps to prevent and resolve conflicts in the community. What participants

expressed as often referred to festivals, rituals, and other conflict resolution processes to create the reunion of family and community. Thus, the focus is always on celebration, sharing and reunion during festivals and rituals. According to two-thirds of the interview participants, community dialogues are held to bring people together and maintain peace and harmony.

Recognition (kabul karekepari) or Acknowledgment (galti bhegel)

Another category that emerges from the three sources of data was recognition. The model focuses on recognition (*Kabul karekepari*) or acknowledgment (*Galti bhegel*) of the offense by the offender who has to tell what happened, why he/she committed that offense and must offer an apology. Accountability means acknowledgement of the guilt by the offender. Warnings such as asking for the apology, *Kansamayer Uthbasgarnalaune* (asking the suspect pulling his/her both ears and sit down and stand up for several times*), Dhog Garnalaune* (Bowed for low status) are part of making the offender realize that he/she should not repeat the offense.

Compensation (jariwana and chhetipurtibharaune) & Reparation (rahata)

Another category emerged, which eventually contributed to developing the sub-theme reconciliation. Compensation as a means toward reconciliation is based upon the seriousness of the wrongdoing or offense and also determined by the economic condition of the offender. But if someone repeats the mistakes, their fine will be doubled. One form of reconciliation is to make the offender pay an economic fine, levy in cash or in kind. This compensation amount should be reasonable, such as Nepalese 200-500 rupees. If someone still cannot afford this, they can kill his/her pig and have a community party, a practice that is still happening in Dang. When money is paid, reparation is possible

through providing medicine for treatment of the injury and compensation for whatever loss occurred. Monetary compensation is sometimes granted to assault victims. Depending on the case, compensation collected from the offender often goes to the public fund. As part of the restorative process, donations may also be collected from villagers to cover the funeral expenses of the victims and show solidarity. This approach serves as a way for the community to help the victims heal physically and/or emotionally and recover from the tragedy or trauma by showing sympathy. When needed, the victims of other emergencies are compensated through the public fund. The practice of sharing responsibility for fellow villagers in need, even those who committed an offense, can be compared with the common ownership principle of Marxism theory. One of the basic needs of the Tharu is security, and the researcher encountered many examples of Tharu people that expressed their sense of security.

Forgiveness (maphi) & Healing (nikoparne, dabaiya)

Forgiveness is another category that falls under the sub-theme reconciliation. Healing and forgiveness are core aspects of Tharu indigenous justice model. In the family and community forums known as *Gamala, Jutela-Khayala*, those accused of wrongdoing have to give an oral testimony before the villagers, which is key to determining what happened. Forgiveness can be personal because it should come from the victim's heart and it may not come easily. It takes the time to process the pain and become ready to forgive and some rituals may be involved.

The decision made by *Barghar- Mukhiya* in a particular case is binding for the parties of the conflict. Counseling services are also offered to help rehabilitate the perpetrators as needed. Indigenous worldviews suggest that healing and forgiveness can

also be powerful tools for reconciliation after prolonged civil war. Holding offender responsible for their conduct may be necessary for expressing remorse to the victims and their families. Sometimes offender must offer apologies to victims and their families as well as tangible reparation.

Restorative Justice (samharjanya nyaya)

Because the Tharu *Badghar-Mukhiya* indigenous model values the establishment of a positive relationship between victims and offenders, it can be compared to the western concept of restorative justice (Zehr, 2005). The model rejects retributive punishment because it is harmful to the offender. It restores and heals the harm. It provides healing for both offenders and victims. The Tharu model focuses more on prevention of conflict and restoration of the relationship between the offender and victims whenever possible. As mentioned earlier, participants claimed that public apology and pardon are common practice in Tharu villages. However, repeated or more serious offenses result in a fine imposed as compensation to victims for their damages. Money collected from fines and compensation (*jariwana and chhetipurtibharaune*) can also be used for running schools, public buildings, and properties, thus compensating the community.

Retributive justice's primary goal is to punish the offenders but restorative justice aims at repairing or reforming the offender. Tharu have their own kinds of restorative justice practices. Healing for the offender and recognition of mistakes are the core part of the Tharu indigenous model. If the offender is unable to pay compensation as determined by the *Barghar – Mukhiya*, communities themselves collect donations to support the victims.

The main goal of Tharu indigenous conflict resolution model is to restore the relationships of conflict parties and repair society for the future generation. So the model seeks to resolve disagreements successfully without destroying the relationships. Additionally, this conflict resolution model could help parties benefit from the past experience to learn conflict resolution skills for their own lives. Thus, the concepts of healing, reconciliation and forgiveness have been playing significant roles in maintaining peace and harmony in the community. All concepts are taken by *Barghar-Mukhiya* as relative within the context, not as absolute. Minor offenses, such as misdemeanors, are forgiven so that both parties of the conflicts are reconciled and can live side by side. Zehr (2005) explained the remedies as restorative justice for the victims and perpetrators. He suggests using the restorative justice approach to reform the criminal justice system. Tharu community has radically shifted its position on punishment. Participants indicated that about 40 years ago they used to practice village expulsion for committing major crimes but such harsh punishments do not exist nowadays. They have fully embraced the restorative principles.

Theme # 6, Participation and Acceptance: Traditional Model in Transition

The model has a high degree of community participation, including elders, adult, youth and women. The villagers consistently attend regular conflict resolution and reconciliation processes during rituals and festivals. Acceptance of the model in the Tharu community is high. However, women and Dalits participation needs to be increased to make sure the Model is fully inclusive in practice as well.

Participation

Religion, caste system, age, and gender are variable factors in terms of participation in the Tharu indigenous model. Interview/focus group participants asserted that religion and caste do not influence the process and outcome of the decision. Non-Tharu and women are included in the model's processes.

Elders

One of the questions of the interview and focus group was: "What role does age play in maintaining the model?" Participants expressed in several ways their view of elders as protectors and guardians of the model. Passed down through oral tradition, Tharu's *Barghar-Mukhiya* model has been dominated by the participation of the elderly, relying heavily on their knowledge and expertise. For instance, the elderly are often consulted for help in identification of land boundaries and old road marks.

Elders are considered intelligent, knowledgeable. They are thought to have the skills of patient listening. They are involved in the education and advice of youth. Their decisions have an impact on the solidarity of the wider village.

Women

Due to Nepal being a traditionally patriarchal society in which men play dominant roles, there is a pervasive view of women as inferior. For generations, Tharu women were not allowed to participate in the meetings. However, the *Ghardhuriyan*, the female counterpart of *Ghardhuriya* (head of household), can have indirect but play vital roles in decision-making. Participants noted that the *Ghardhuriya* always asks his wife before coming to conflict resolution meetings about what should be done regarding a particular conflict. The *Ghardhuriyan* may suggest to her husband "What about if we do this or

resolve the issue this way?" Even when included in meetings, women's roles in the indigenous conflict resolution process have mostly been limited. Yet, lately women's participation is slowly increasing. Today, women have an ambiguous position in the model because they are confronted with accepting tradition and culture while coping with modernity. For Tharu women, in comparison to *Brahmin* and *Kshatriyas* (higher caste) women in Terai, they are considered inferior. But *Dalit* (untouchables) women have an even lower status among women. But all women are considered to be inferior to men. Therefore, socio-economic and caste factors greatly impact the security and identity of women in Tharu culture.

According to the participants, men perceived women as incapable of solving conflicts effectively. However, in recent times, Tharu women have begun resolving conflicts that affect them directly by forming their own committees. Since recent women's empowerment and Backward Society Education (BASE) initiatives have come to remote Tharu villages, there are positive indicators that women's future may not be that dark. For example, alcohol-related violence and disputes used to occur in huge numbers before women's groups started to campaign against alcohol. Many other issues they deal with grow out of gender discrimination that has kept women comparatively powerless. Traditionally, there was no community approval for women to be exposed to the outside world. Culturally endorsed practices that are oppressive to women can often remain hidden in the private or domestic sphere. The idea that women are considered weak sometimes means they are likely to get threatened by their husbands or male heads of the households. It was reported that often, if they went ahead and spoke at the meeting they would get physical punishment at home. The view of many participants, both male

and female, was that such abuses must be made public so that perpetrators would be punished, crime prevented and/or decreased. For the model to uphold today's human rights standards there is a need to collaboratively engage women and men in solving this kind of contradiction. This researcher believes that the contradiction must be handled nonviolently, but with creativity.

Another contemporary issue mentioned by women participants is that Tharu women have been forbidden leadership roles in rituals. For example, women occupy none of the various traditional roles that are part of the *Guruwa* system. *Guruwa*, a local healer, performs rituals that aim to maintain peace and harmony in the society. Although women are certainly involved with caring for others in their homes, as well as practical support (such as food preparation) for rituals and festivals, only *Guruwas* have the authority to perform important rituals in healing the sick and injured.

This researcher believes that though women have started to be more directly included in the process, they need more power and men's mindset against women must change. Maslak (2003) the author of "Daughters of Tharu" has highlighted the low participation of women in the society. According to her, Tharu women are considered inferior to higher caste women in her research site Butwal of Nepal (Maslak, 2003, 148-164). No other current literature talks about participation and acceptance of model. The findings on participation and acceptance are new knowledge in the field.

Youth

Youth involvement (youth = less than, equal to 40 years of age) is low; only 15 (out of 68) participants were under the age of 40 and the youngest participant was aged 24. This seems to indicate that younger Tharu have a minor role in the model, but

education is gradually changing the mindset of youth. Some elders felt that more

education could increase the number of younger adults participating in the model.

Non-Tharu Community

Responses to the question, "How do the decisions of *Barghars-Mukhiyas* impact

the Non-Tharu community?" were highly contested. The majority of the participants

clearly expressed their views that *Barghars-Mukhiyas* have a strong and harmonious

relation with non-Tharu community and that their decisions are equally respected and

observed by Tharu and non-Tharu community members, including low caste

untouchables and Muslims. However, in practice there is limited representation of non-

Tharu. The study suggests that participation levels of *Mushahar*, *Dusad*, and *Chamar*

(members of the Dalit caste) and Muslims are disappointing. Although the *Chaukidar* is

usually selected from an untouchable caste, there is not a single *Barghar-Mukhiya* who is

Dalit. There are no Muslims serving in the role of *Barghar-Mukhiya* in Tharu villages.

Caste System

In the past the government of Nepal legally established the Tharu people as a

caste. However, most scholars argue that Tharu are tribal people (*janajati*) (Singh, 2006,

Dahit, 2009). Interview and focus group participants, all Tharu, responded to question 22

"What role does caste system play in maintaining the model?" by reporting that relations

among different castes and religions are well established in the village, as interfaith

relations and religious tolerance are upheld in the community. Community dialogues

have an important role in bringing people together and maintaining peace and harmony.

Participants said that they do not believe the caste system plays any role in the actual

process of dispute resolution, claiming there is neither discriminatory nor bias in

decision-making based on caste. It was pointed out that for any untouchable castes, it is economically impossible, i.e, too expensive, to seek conflict resolution through the formal system, but they can easily access the Tharu conflict resolution model since it is free and voluntary. However, wherever Tharu are in the majority they make the effective decision for the entire community (Tharu and other castes) and implement them effectively. Regardless of how a Tharu defines himself or herself by caste or tribe, this researcher believes the model is stronger where Tharu are in the majority.

The Acceptance of the Model

Many participants estimated that ninety percent of the people are satisfied with decisions made by the model. They say acceptance of the model in Tharu and non-Tharu is high because its focus is on the welfare of the family and the community as a whole. They say the model is a success because participation is voluntary, requiring a prior commitment of parties involved in the process. They say another advantage of the local model is the savings of cost and time involved in solving conflicts compared to formal systems. Sometimes the cost of the latter may be greater than the amount awarded to the victorious party, a hardship for most Tharu, who are poor and live in remote villages far from the court. In comparison, the indigenous mechanism consumes fewer resources and the process moves faster. Local leaders believe it offers independent, unbiased, fair and efficient access to justice.

This researcher notes that the preference of the Tharu to settle local matters helps to decrease the caseloads of the formal court. The model is free from government control. It is culture and context specific and based largely on cultivating and restoring

relationships. It generates community-focused results, which impact positively on the community. The model is process-oriented, not product-oriented.

During the Rana regime (1800-1907), the government had recognized the model and granted it legitimate authority. The *Matwan* was recognized as a village chief in Dang. At that time, the position was even powerful enough to challenge the authority of the king. When the king of *Chhilikote* had granted *Birta* land (land granted by the king to his aide) to a Kisan (farmer) without informing the *Matwan*, the *Kisan* did not receive irrigation water that year. Only after the king recognized the authority of *Matwan* and the mistake he had made did the farmer get water. Today, the model continues to work with the full support of the local community, but they are demanding that the current government give recognition and support for Tharu community and its model.

The model has strong acceptance within the village because it is a long-term and sustainable mechanism that is integrated into the cohesive society that renews bonds through ritual and festivals.

Tharu Barghar-Mukhiya Indigenous Model

This case study develops a new theoretical model for understanding Tharu indigenous conflict resolution traditions, customs, and practices (Behrendt, 1995). As a model, it is a generalization of observed and researched data. As illustrated below, the model consists of Rituals and Festivals, a central theme, and five interrelated themes. The researcher concluded that the theme, Rituals and Festivals, is central to the model because it is through rituals and festivals that *Barghar-Mukhiyas* make important decisions. It is through the theme of Rituals and Festivals those other themes gain meaning and context. It is the model's foundation.

Challenges and strengths of the model are emerged from findings and will be analyzed separately at the end of this chapter.
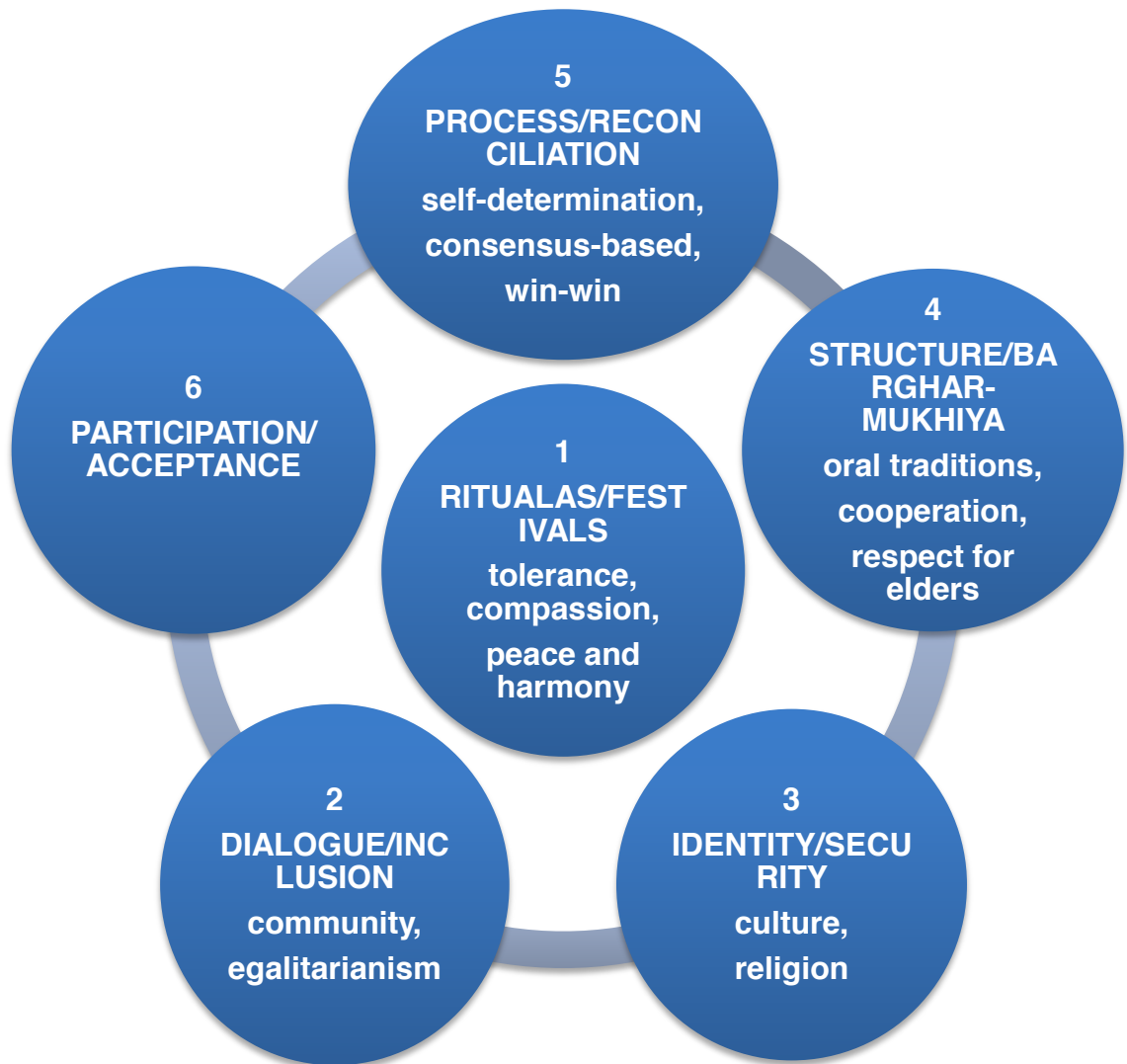
Figure 3. Tharu Barghar-Mukhiya Indigenous Model

According to the model illustrated above, the themes Dialogue/ Inclusion, Identity/Security, Structure/*Barghar-Mukhiya*, Process/Reconciliation, and Participation/Acceptance have dynamic relationships with the central theme, Rituals and Festivals. The model reflects the traditions and customs (Ritual/Festivals) of the Tharu people. It promotes Tharu identity (Identity) and embodies self-determination (Process)

through *Barghar-Mukhiya*'s decision-making power (Structure). The model meets most of Tharu community's basic human needs including identity and security because it is based on ingrained values — community, egalitarianism (Dialogue and Inclusion), oral traditions, cooperation, and respect for elders (Structure), consensus-based (win-win resolution -process) and procedures (Process). All these values support and are reinforced by the Tharu rituals and festivals.

As stated, Rituals and Festivals are the model's central theme. Tharu peacebuilding rituals and transformational festivals demonstrate tolerance, compassion, and indeed, their ultimate goal is to maintain peace and harmony and bring reconciliation. Rituals and Festivals transform the relationships of the parties in conflict Theme 5, Reconciliation. Through Rituals and Festivals theme 2, Dialogue and Inclusion, a favorable milieu for conflict resolution and peacebuilding takes place. Theme 3, Identity/Security is shaped by central theme Rituals and Festivals. Tharu identity is preserved and security is provided through rituals such as *Patibaithana* rituals. Theme 4, Structure of the Model, *Barghar-Mukhiya* receives values and guidance from Theme 1, Rituals and Festivals. Rituals guide conflict resolution process and the reconciliation processes take place during the festivals.

When we remove rituals and festivals from the model's center, we quickly see how the model falls apart, for it is only through rituals and festivals that *Barghars-Mukhiyas* pass on oral traditions, instill respect for elders and community cooperation. Rituals and festivals embody the process of reconciliation; garner community participation and acceptance through dialogue and inclusion. Tharu identity is thoroughly

expressed through rituals and festivals. These themes are all interrelated, but rituals and festivals set them in motion and bring them to life.

Analysis of Strengths and Challenges of the Model

Participants identified some strengths and challenges of the model, which were also verified by researcher's observations and review of documents. Win-win resolutions, consensus-driven decision-making, unity and collectivist approach, reconciliation, restorative practices, and constructive and meaningful dialogue are some strengths of the model. The Tharu model seems resilient and able to adapt to changing needs. But the model has encountered problems with outside forces such as the state, which has its own formal system of law, and non-Tharu, who can be wealthy and powerful. While outsiders seek to dominate and impose their own model, the Tharu seek to defend theirs. The state has refused to recognize the Tharu model, which is perceived as a threat by Tharu to their identity and existence. Pressure by the state may be encouraging Tharu not to give in but rather to more intensely participate in old traditions. Whatever the reason, rituals and festivals remain popular and well attended. Tharu also seem to perceive that in order to compete with the state they must have better educated *Barghars-Mukhiyas*. And they must seek to eliminate practices that brand them as backward (such as superstitions and prejudices against women) in the eyes of the state and the larger world.

While most aspects of the model are inclusive and progressive, some are inconsistent with modern human rights principles such as Boxi customs and patriarchy. The researcher believes the model is adaptable to modern changes — which is beneficial for community advancement — but recognizes significant fundamental problems.

Change as Strength

The Tharu model has a changing nature (Dahit, 2009). Contemporary culture has greatly impacted the model. Over time, the model has proven to be dynamic with the potential to evolve in response to a changing world. The model has adopted many modern human rights principles and values. The women's empowerment initiative has slowly begun to change Tharu women's status. Nowadays, Mother Committees are instrumental in advancing women's participation in the model. Furthermore, youth participation is gradually increasing. The use of torture as a penalty for perpetrators has been made illegal. Additionally, evil customs such as persecution of people accused of being *Boxi* (witch) and *Dian* (ghost) etc. are decreasing.

Knowledge and Experience as Strength

Interview and focus group participants confirmed that knowledge and experiences of the particular case enable them to decide the case as effectively as possible. They also related that residency in that particular village is a plus because it provides a contextual knowledge and experience of that particular community. Another qualification for being village chief expressed by the study participants was respect and experience. Participants often expressed the opinion that education and literacy should be one of the qualifications for becoming village chiefs *Barghar-Mukhiya*. Several educated participants felt that uneducated *Barghar-Mukhiyas* may not perform the job effectively.

Mistrust of Formal System as Challenge

All participants expressed dissatisfaction with the formal court's performance, saying the formal process is expensive, inaccessible and lengthy. Another barrier to satisfaction was mistrust caused by court corruption.

Participants frequently mentioned that local leaders do not have a smooth and harmonious relation with formal systems such as police and court. During the *Panchayati* political system, innocent people were forcefully detained and false testimony used to be taken through torture though this practice is now illegal. Despite the views of some participants that the *Panchayat* regime was better than the current political system in upholding justice, most felt the Tharu indigenous model works better for most people in their villages. According to the participants, the court is expensive, inaccessible, and has a prolonged process. Trained, professional police may be helpful in investigating a crime in a village, but their presence in the rural areas is inadequate. People still have a great deal of mistrust of police because of past police brutality during the civil war. Some Tharu elders also feel police presence in their village is a threat to their traditional authority. However, cases such as murder, rape, and robbery are referred to the police for investigation and prosecution. When disputes are reported to the police department for mediation, police reach out to the *Barghar-Mukhiya* again for their help in understanding the firsthand evidence to resolve the case.

Participants favor maintaining a balance between the courts and the indigenous model. According to Marx, formal court systems serve to protect the interests of the ruling class and always favor rich people. Such formal courts use an adversarial, punitive, evidence-based system and the poor have no power to present the evidence to win their cases. In Tharu community the court has become a burden for the people instead of delivering justice to them. The court is located far from where many participants live. Some knew of situations where the lengthy procedures caused people depression and trauma, even forcing people to commit suicide. The corruption is a persistent and

widespread problem in the courts; there is no transparency in the court system. The research findings suggest that many poor Tharu lost their tenant rights due to economic disparity (Dahit, 2009). The Village Development Committee (VDC), renamed the Village Council by the 2015 Constitution but still known as the VDC, is supposed to be a formal local government body to represent the people, but it has been more than a decade that VDC does not have elected representatives. With only the secretary and a few other staff members and no elected representatives, there is limited decision-making power for Tharu. The findings suggest that Tharu have been trying to smooth the relationship with VDC but their relations are not harmonious. VDCs always interface with police and other formal agencies on a regular basis while *Barghars*, *Agahwas*, *and Mukhiyas* are actively engaged in the community.

The Nepalese Army and Nepalese Armed Police Force do not play any role in community level conflict resolution process. During the Maoist War (1996-2006), instead of helping the community, both institutions lost their trust by arresting Tharu, searching their houses, torturing them in the name of the Maoists and their affiliates. Even though the Nepalese government has introduced a reservation quota system to ensure representation for indigenous groups, Tharu still do not have adequate representation in the Nepalese Army and Nepalese Armed Police Force. The findings suggest that Tharu feel that they are excluded and marginalized and their basic human needs of self-esteem and security have been threatened and violated.

Formation of Peace Committees is the outcome of the historic peace accord between Nepal's government and the Nepal Communist Party (Maoist). The purpose of setting up the peace committees was to maintain peace and stability at the local level.

Though the government has not recognized the Tharu customary law and its institutions formally, they have included members of Tharu in the state established local peace committees.

The research findings suggest that the model has been practiced for centuries and is still popular among people because the practices are local and based on familiar customs deeply rooted in Tharu traditions and cultures.

Ninety-five percent participants indicated that Tharu leaders do not have a smooth and harmonious relation with the formal systems such as police and the court. Historical mistrust of Court system, the model is the best option for conflict resolution in the community.

The participants wished for an adequate representation in Nepal Army, Armed Police Force, and local governance, the understanding between the formal system and Tharu model could have been smoother to take proper action and build trust for resolving conflicts. Formal systems are state-centric but the model is people-centric where people are loyal to their leaders. The state-centric system has a lack of legitimacy from the ordinary Tharu people but the model is considered to have a huge legitimacy.

It is encouraging that with the promulgation of Nepal's new constitution on September 20, 2015, the Tharu people and other indigenous groups of Nepal have received constitutional rights to preserve and develop the language, texts, culture, literature, arts and property of different castes and communities, on the basis of equity.

No previous literature has fully addressed the mistrust of the formal system. Upreti (2004) has researched on resource conflicts in some districts of Nepal, but neither in Terai nor about Tharu.

Class Struggle as Challenge

According to Marx, private property, motivation to maximize profit at any cost, and the accumulation of capital in a few hands eventually creates the two classes, property owners and propertyless workers, in other words 'have' and 'have-not' classes (Marx, 1844). According to Marx, "The worker becomes all the poorer the more wealth he produces and the more his production increases in power and range. The worker becomes an ever-cheaper commodity the more commodities he creates" (p. X). As Marx interpreted, class struggle exists in the Tharu community. Marx and Engels in their Communist Manifesto asserted, "The history of all hitherto existing society is the history of class struggle" (p. X). Tharu are divided into landlord and farmers. Hills and Indian landlords owned the lands that Tharu have to cultivate.

Without land Tharu largely at the mercy of the landlord for their survival. The majority of participants expressed their concern about exploitation, discrimination, and isolation from the ruling class, landlords, *and patwari (tax collector).* Participant 1 expressed his experience of providing a leadership for villagers to fight against the landlord in Bara. He reflected on the suit that was filed by the landlord in the court to prosecute innocent villagers who were severely impacted. Movie *Buhran* has clearly shown the class struggle where *patwari* forced all villagers moved to another part of the country. As noted by participant 34, thus class exists and due to it incompatible goals of the parties confront and conflict intensifies.

Participant 11. reflected on class struggle as, "*Haliya* system where Tharu men and women became domestic servants. Master mostly Hill landlords, Indian landlords, and Tharu landlords recruit them during the *Faguwa* (Holi) new year of Bara. *Kamaiya*

and *Kamlari* (Bonded labors), systems exist in western part of Terai where Tharu men and women have to work for all their lives. They are working for the landlord to free themselves from their debts but they are not receiving a regular salary or wages. These feudal systems carry the chain of exploitation over centuries on the poor Tharu. These needed to be ended in real life, not in law books."

The model has similar concepts of democracy, social justice, and equilibrium. For example, the *Bighatti* system, part of the *Chaudhari Kulapani* (*Gumasta* in Bara) irrigation institution in Tharu village, is based on principles of social justice and equity that essentially ensure that the farmers provide their free labor for irrigation or other public development projects based on the size of the land they cultivate. However, this practice has made the farmers vulnerable to exploitation by landlords who take advantage of free labor at harvest time.

The *Kamaiya*, *Kamlari*, and *Haliya* systems are the results of the exploitative feudal system where rich landlords systematically exploit the poor Tharu. The poor Tharu surrender to the landlords for their survival.

External Threats

Gunaratne (2002) has talked in a limited way about the threat of Indian and *Pahadiya* (Hill migrants) to the Tharu community, but the researcher comprehensively explores findings about the internal and external threats to Tharu community. Participants believed that the State's policy of exclusion and marginalization is a threat to their model and identity. They say the State discriminates against them, which leads to exclusion and marginalization. They affirmed that peace and harmony could only be achieved if the government recognizes the Tharu model and their traditions. Tharu

believe that Indian and Hill immigrants are an imminent threat to Tharu because they have a deliberate plan to impose their rule and culture over them.

The practice of Christian missionaries converting Tharu is also believed by them to be a grave threat since it undermines Tharu's ancient beliefs. The research data indicated that poor untouchables and Tharu have been converted to Christianity and Bahai from their indigenous religion (Dahit and Bhattarai, 2009). Conversions have been regarded as forceful or coercive — a violation of human rights — because Dalits are vulnerable to the material assistance missionaries are offering them.

Chapter Summary

The purpose of the research study was to investigate the Tharu Indigenous Conflict Resolution Model as currently practiced in Bara, Dang and Bardiya districts of Nepal. Using a qualitative exploratory case study approach, the researcher sought detailed information about the processes and impact of the Tharu traditions and customs for conflict resolution and reconciliation and its ability to adapt to modern needs. The six themes that emerged from the data sources present a holistic model for conflict resolution that is dynamically connected to the traditions, customs and cultural values in which they are embedded.

Responses to the research questions from interview and focus group participants provided insight into the model and its role in their villages. Additionally, concerns and ideas were expressed about how the model can better interface with the formal system and the changes brought by modern times. Basic Human Needs theory, as well as Marxist views about class struggle, provided useful tools for interpreting the personal and societal implications of the findings.

The following summarizes the six emergent themes: Emergent theme 1 described the connections between the model and various rituals, festivals and traditions that facilitate dialogue, cultivate relationships, and sustain peacebuilding. Emergent theme 2 indicated that Dialogue and Inclusion are vital to the model itself, as a response to traditions, customs, cultural beliefs and local circumstances. Emergent theme 3 confirmed that the ongoing practice of village gatherings to resolve conflicts are tied to Tharu traditions and customs strongly associated with Tharu identity. The research findings also revealed the historic roots of Tharu reliance on the model for a sense of security, as well as concerns about threats to security within the community and beyond.

Emergent theme 4 presented the various stakeholders of the model, as they function to serve the needs of each local Tharu community. Emergent theme 5 summarized the types of conflicts dealt with by the model and the processes for resolving them with community harmony and stability as set goals. The findings focused on the key role of reconciliation in achieving outcomes that restore relationships and strengthen the community. Emergent theme 6 explores the participation and acceptance of the model by the older adults, youth, women and non-Tharu, as well as the impact of religion and caste. The findings present and analyze strengths and challenges and predictions for the future of the model. The strengths are that without outsider influence and pressure, the model or "system" is perceived to "work" for the community. Win-win resolutions, restorative justice, and accessibility are the major strengths. The challenges to the model are that it is under pressure from new forces: the State and Outsiders (non-Tharu), mistrust of the formal system, class struggle, and low participation of women, youth and non-Tharu.

Chapter six discusses the implications of the findings with an examination of their contribution to the field of Peace and Conflict Studies, and makes recommendations for further study with a conclusion of the entire dissertation.

Chapter 6: Implications, Recommendations, and Conclusion

Introduction

The primary goal of the Tharu indigenous model is to bring reconciliation among community members. The model's uniqueness, effectiveness, and strengths at the local level have resilience in responding to change. The model has a practice similar to the western concept of restorative justice (in Nepali it is called *Melmilap* meaning "reconciliation through forgiveness"), in which community and neighborhood conflict resolution dialogues take place. The model focuses on restoration of the relationship between the conflicting parties. For example, reconciliation takes place through dialogue, symbols and rituals during *Maghi*, *Dasara*, and *Faguwa*.

Early in the research design phase, the researcher had hoped that the research findings might attract the Nepal government's attention to the potential of this indigenous model to decrease the caseload of the court system. Since that time, the new constitution at least has recognized the right of indigenous groups including, to some extent, Tharu. The researcher recommends that all stakeholders who are working towards preserving traditional or indigenous models of conflict resolution should document the processes about how to pass them along to future generations.

To remain viable, the model needs to be further reformed in compliance with international human rights principles. Torture has been eradicated by *Barghar-Mukhiyas*. Similarly, other harsh physical punishments such as village expulsion used about 40 years ago, are no longer in practice. However, research participants reported there are still instances of retaliation or abuse against women by their husbands for attending the public meetings. The study suggests that women have inadequate representation and

participation in the model. Many Tharu men continue to believe that women are not capable of holding leadership positions outside the home.

Implications

Basic Human Needs Issue

The research participants indicated that basic human needs of Tharu, such as their sense of identity, security and self-esteem, are not met by the formal system. They responded that the model has been a part of their identity and self-esteem and the model helps them feel secure. Interview and focus group participants felt that the State's reluctance to recognize the model's value has been a major factor of the current turmoil in Terai over demands for a *Tharuhat* state. They expressed misgivings about the State's respect for their culture and commitment to treating them as fairly as other groups in Nepal.

Class Conflict

The findings showed that conflict between the landlord (*Jimindar*) and poor Tharu is class related. *Kamiya*, *Kamlari*, and *Haliya* systems are part of feudal, oppressive and exploitative structures that exist in the community. Numerous disputes between the poorer Tharu and wealthy landlords (*Jimindar*) have been brought to the model, but its root cause - economic and class disparity - continues. The model has limited authority in such cases and the formal system tends to favor the rich and better educated. Discrimination against and exploitation of untouchables is based on their poverty and relative powerlessness. It is a class issue more than a caste issue that has not been properly addressed.

Relationship to the Formal System

How do the indigenous model and formal system work in collaboration? Though Nepal's government has not formally recognized Tharu's customs, laws, and practices, they have included Tharu members in State organized local peace committees, as was observed at the research sites. *Barghars-Mukhiyas* have been acting as bridge-builders between the community and formal Government because they have no elected representatives on the Village Development Committees (VDCs).

The Tharu model aims to reconcile parties to live harmoniously in the same village. Small offenses can be forgiven or the offender is warned. Statements by the participants support the idea that restorative practices are instrumental in local peacebuilding and conflict transformation. The model mostly deals with all civil cases and criminal cases except for most major criminal cases such as murder, rape and robbery. Some participants asserted that capital cases, including murder cases, could also be resolved at the village level if surrounding villages were in agreement about doing so. However, many Tharu fear that police may prosecute them for not reporting such crimes. The research participants suggest that relations with the formal system should be improved and that a balance needs to be made between the model and formal system. Participants stated that if the Tharu had adequate representation in the Nepalese Army, Nepalese Armed Police Force, and local government, then relations between the formal system and Tharu community would be smoother and trust building could begin. People still have a great deal of mistrust of the police because of the past police brutality during the civil war and current rampant corruption in the court and police system.

Since the promulgation of Nepal's new constitution on September 20, 2015, the

indigenous groups have been granted rights to preserve and maintain the traditional

knowledge, skills, experience, culture and social practices of their local communities

(Nepal's Constitution 2015, Section – 4, Article 54). The constitution has also clearly

spelled out the role of women and their participation in all state structures and bodies

based on the principle of proportional inclusion. This will also encourage more women to

participate in indigenous, as well as formal mechanisms for dealing with conflict

management starting from grassroots levels.

Changing Nature of the Model

The model is flexible enough to adapt to modern changes. The participants

expressed that education is helping to change the society. The belief that *Barghar-*

Mukhiya should be educated has increased recently. The interview and focus group

participants said education (state's standard) should be a requirement for being *Barghar-*

Mukhiya. Inhumane customs, such as persecuting those accused of being *Boxi* (witch)

and *Dian* (ghosts) have been declining in the Tharu community.

New festivals, such as *Dasara* (Dashain) and *Chhat,* have been introduced from Indians

and Pahadiya (hill people), and have been influential in the Terai. *Dasara* (Dashain) is

celebrated by 40% of all Tharu, while 60% of all Tharu celebrate *Chhat* festival, which is

imported from India. Thus, the community is becoming more inclusive and open to other

cultures.

The rules of punishment have changed. Instead of expulsion from the village for

certain offenses, fine or compensations are paid. Women's roles are changing gradually.

For example, women's groups in the villages now control alcohol consumption because it

has been a major cause of domestic violence. Mothers have also started sending their daughters to school along with their sons at an equal rate.

Superstitious customs such as *Boxi* (witch) and *Dian* (ghost) are decreasing. Because the Tharu *Barghar-Mukhiya* indigenous model is culture-specific, it creates community-focused outcomes that impact the whole village. Tharu's traditional justice processes represent practical and viable options for bringing genuine peace and reconciliation to the community.

The model is process oriented; the timing and cultural context play crucial roles in determining the success and failure of conflict resolution processes. The model's process reinforces inclusion and participation; all parties to the conflict are responsible for resolution. For example, during the *Maghidewani* festival, all *Ghardhuriya* (households) including women, children, and Dalit households participate in the decision-making process. Each has a right to speak in favor of or against the particular case or proposal. *Matwan* (village chief in Dang), *Barghar* (Bardiya), or *Mukhiya* (Bara) ask all *Gharduriyas* what should be done (during or outside the meeting), and women are asked for their opinions about what should be done. The opinions of all participants are valued when making decisions. Over time, traditions and customs are becoming more consistent with human rights principles. Torture in the name of physical punishment has been abolished. Women have more status in the family and community than ever before.

Adding to the Knowledge Base in the Field

The goal of this research study was to make a significant contribution to the field of Conflict and Peace Studies by exploring and analyzing the indigenous conflict transformation model of Tharu ethnic groups of Nepal. Historically, the Tharu'

indigenous model and its processes have been passed along through oral traditions, and were not found in written documents. However, documentation of meetings has become a recent phenomenon. As the first comprehensive study on *Barghar-Mukhiya* model, these findings gathered new information and offer a way of informing the public about this model.

The *Barghar-Mukhiya* indigenous model emerged from the study. The Tharu's practice of dialogue during the *Dhogbhet* and *Maghi* process can be compared with track-III diplomacy in conflict resolution where people-to-people efforts are used to make a change in the context of the conflict. Tharu use this dialogue process not only between Tharu, but also with non-Tharu and neighboring villagers. This process can be used for resolving conflicts where similar community and neighborhood context exists. The Tharu model based on collectivist approach, the State promotes individuality. In a collectivist and cohesive society, where the community gets preference over individuals, this model can be useful. People- to- people diplomacy known as 3rd track diplomacy is found in the model. The community-level peacebuilding efforts in the Tharu community are an additional aspect of the field. Community dialogues that take place during the *Maghi*, and during general meetings of *Gamala* and *Khyala* and festivals and rituals have been instrumental in bringing people together for constructive conflict transformation.

Restorative Justice

Tharu's focus is on reconciliation, which is also a great asset where restorative practice is prevalent in the local context; warning and compensation are used instead of punishment. Reforming the perpetrator is the prime goal. While retributive justice's

primary goal is to punish the offenders, restorative justice aims at repairing the harm and reforming the offender.

Acknowledging the wrong and asking for forgiveness open the opportunity for reconciliation. Tharu's restorative practices, forgiveness and reconciliation model can be useful elsewhere at the community and neighborhood level. The model is based on Tharu culture, their rituals, and festivals. Yet, this model's use of dialogue and restorative approaches will be beneficial elsewhere to resolve similar conflicts and reconcile groups and communities.

The payment of compensation to the victims is integral to maintaining community harmony. Assuming that the nature of the offense warrants letting the offender stay in the community, rather than go to jail, compensation enhances the healing and reconciliation. Compensation can be in kind such as: food, grains, or occasionally providing social services for the benefit of the community. As mentioned elsewhere, it can also involve killing a pig and cooking it to serve to community members at a party hosted by the perpetrator.

The Conceptual Model

The model is cohesive and vibrant. Family and kinship play important roles. Dialogue occurs from the *Ghardhuriya* level to the *Barghar-Mukhiya* level to the *Gamala-Khayala* level, where everyone is actively involved in taking ownership of the process and outcome. Being open and transparent is one of the advantages of the model. The focus is on relationship building, with the goal of maintaining peace and harmony. Love, harmony, and peace are the core values of the *Barghar–Mukhiya* model. This is fundamental to the philosophy of putting collected fines into the public fund and sharing

the resources and benefits among community members. Therefore, all parties have to be satisfied with the outcome of the settlements.

The model resolves local disputes at the village level. Basic steps at the core of the process include: taking oral complaints; hearing from both parties; and finding out the facts and circumstances. In the past, when no state and formal law existed, this model played a dominant role in conflict resolution. Nowadays, except some major crimes including murder, rape, and robbery, the model still resolves all other disputes if both parties agree to comply with the terms of the decision. This kind of traditional model is effective, less expensive and speedy in delivering justice.

The study has explored the roles of women, the elderly, youths and leaders of Tharu community in an effort to shed light on the current situation of the Tharu community. This study also explored the impact of caste and class. The Tharu indigenous conflict resolution model has been strong, effective and capable of resolving people's problems. Rituals and festivals are integral in Tharu society, as are family, kinship, and community. Agriculture is the occupation of most of the Tharu. They help each other in farming and to ensure their irrigation system is maintained and regulated in a fair and equitable manner. Thus, the model is culturally rooted and integrated into the daily life of the family and members of the community. Maintaining peace and harmony has a positive impact on the non-Tharu community such as Pahadiya, Mushahar, Chamar, Dusad and other Madhesh-based untouchables.

The main advantage of the model is that it is bottom-up, originating from the community itself; it is simple and easy to carry out. Because the model is less complex, the process can move more quickly and is less expensive than the formal system.

Compared to a disagreement taking more than a year to resolve in a formal justice system, it can be resolved in relatively much less time by the indigenous model. Improved understanding of the model is critical because, the formal justice mechanism is becoming out of reach for Tharu in terms of money, time and geographical accessibility. The huge backlog of cases and corruption in the formal justice system shows that judicial institutions are inefficient and strained (Rijal, 2013).

The model is transparent and open. The proceedings will be open for public with a goal of maintaining transparency and democratic process by engaging all members of the community in the process. The primary goal of the model is to bring reconciliation so that both conflicting parties will have a peaceful environment in which to live together again. Reconciliation is an approach to restoring communal harmony and repairing relationships. Reconciliation rituals have an effective impact on reaching the goal. Tharu *Guruwa* has an important role in healing and carrying out mental and spiritual rehabilitation of victims and offenders (Ibid, Dahit, 2009).

All villagers have equal rights to participate in the meeting where the justice and reconciliation process is occurring. The meeting is usually organized outside in open space, such as the yard of the *Matwan, Mukhiya,* or *Barghar,* or any other public place. As a result, they are inexpensive and affordable to ordinary Tharu.

Applicability to Other Communities

The study aimed to contribute valuable knowledge in the field of peace and conflict studies with the hope that it will be useful for implementation elsewhere, i.e. in other regional areas of conflict. This study contributes to insight for other countries that are in transition and have a strong presence of indigenous communities. In the context of

Nepal, this study will give the Nepalese policymakers an opportunity to incorporate the recommendations suggested by the researcher and implement steps to reduce conflicts from the grassroots level. There are hundreds of dispute related cases pending in the Nepalese court system, due to lack of enough personnel and rampant corruption in the court system. In addition, the study adds indigenous knowledge to the conflict transformation and restorative justice paradigm.

Limitations of the Study

Even though the researcher spent twelve months to complete the field visit, data collection, and analysis, it was not possible to observe all Tharu festivals, rituals, meetings and dialogues with local formal law enforcement agencies regarding conflict resolution at the village level. Due to the geopolitical situation of Nepal, it was time-consuming and difficult to reach out to the participants in a timely manner. From a methodological point of view, being unable to include more participation from Tharu women in the research was also a limitation of the study, whereas only 12 women participated out of a total 68 participants. Limited research skills and experiences with qualitative research may have impacted in discussion and interpretation of the research. Data collection and analysis at the same time were more efficient whenever the researcher could manage both. However, some data had to be analyzed after returning to the USA. Due to limited access to an Internet connection and electricity, this wasn't always possible during the data collection period.

In terms of limited time and scope of research, the sample size was too large. Interviewing 68 people from three different geographic regions turned out to be demanding and intense. Observations could only become possible for those festivals,

which fell during the researcher's field study period from February 2015 to February 2016. Only five out of 42 Tharu CA members were available for interviews due to their busy schedules. The researcher would have preferred to interview the majority of them, especially women, to include their multiple perspectives.

Focus groups could have been conducted first, before conducting one-on-one interviews because focus groups' general perspective might have helped to get information from individual interviewees.

Non-Tharus were excluded from the study, which is a limitation. The members of the *Pahadiya* (Hills origin), untouchables, Muslims, and Buddhists could have provided their perspectives on the model, its impact and their participation in the model, Since participants of the study, were only Tharus, it is hard to verify the reliability of the statements that participants made about acceptance of the model by non-Tharu community members. Findings would be more reliable if research study could have included non-Tharu as research subjects to get their perspectives on the Tharu indigenous model and its impact on non-Tharu.

As an insider, the researcher had the advantage to build trust among the participants. However, the researcher's bias and pro-Tharu views may have also influenced the research outcome.

Recommendations for Further Research

The researcher's goal was to obtain a better understanding of indigenous systems of conflict transformation, in particular, the *Barghar-Mukhiya* model. Based on findings detailed in chapter four, the researcher offers the following suggestions and improvements for future research, including methods for the qualitative case study.

First. Further studies of other indigenous conflict resolution models in Nepal may lead to more steps to reduce a backlog of 60,000 cases in Nepalese Supreme Courts, Appellate, and District Courts. The court system should examine the effectiveness of some aspects of the Tharu model for their usefulness not only for Tharu community but also elsewhere in the justice system. Restorative and reconciliation practices may have broad lessons for Nepal.

Second. It is recommended that the government recognize and support the model itself. The new constitution has recently recognized the rights of indigenous groups. But government recognition for indigenous groups' customary law and their practices has not happened. Appropriate laws to recognize and empower the traditional institutions of Nepal would contribute to peace and social harmony in the community.

Third. Further research should explore the perspective of Non-Tharu people including untouchables. Their perspective on the model would broaden understanding of the model's role in diverse communities.

Fourth. The study suggests that education should be the first criterion to improve the situation of Tharu community. Education and literacy can help preserve tradition and culture for future generations. Education can also broaden understanding about how the model can interface with the formal system and human rights standards. Better educational opportunities for women and untouchables would be a path to improved participation in the model. Further research is recommended about how to lift up untouchables and women through education. The instrumental principles of Tharu community include equal treatment, respecting each other's culture and religion, and self-governance. Accordingly, it is everyone's responsibility to make the model effective and

transparent. A better understanding of how to carry out these principles can significantly reduce conflicts. The government needs to promote educating the general public so as to overcome prejudices among different castes and inhabitants of Terai, Pahad (hill) or Mountainous area. This could alleviate conflicts due to negative perceptions or mindset about different castes, gender, sexual orientation, religions and other disadvantaged social status.

Fifth. Tharu festivals and rituals have become expensive, which makes ordinary community members less able to observe them as the rich do. Hence, ways of celebrating festivals and rituals need to be cost effective and manageable and festivals should be shorter duration, but should still preserve the culture and traditions connected with the model.

Sixth. Tharu should look for additional occupations, such as joining civil service, Nepalese Army, Nepal Police Force etc., besides what they have been doing in the past. The government should make a policy and law to uplift Tharu community, which can play an important role through its contributions to the national economy and politics.

Seven. Based on the findings, further study is recommended to determine when and how indigenous practices can be the most appropriate way to resolve conflicts in the communities and retain social cohesion and unity. Whether a hybrid justice system, mixing customary and formal approaches, is viable in Nepal is another topic of further research.

Eight. Research is needed about how the indigenous conflict resolution model could be institutionalized in order to maintain balance with formal laws and regulations of Nepal. There are so many cases in Nepal's courts that have been awaiting decisions for

the last 20 years. The model could play a valuable role in managing conflict-related cases from the grassroots levels, thereby helping to reduce the huge backlog of cases pending in the courts.

Nine. Formal training should be provided to the *Barghar-Mukhiyas* or *Matwans* to enhance their knowledge as per the current need of the communities and the existing law and regulations of the country. In order to deliver effective and efficient decisions, it is necessary to select as *Barghar-Mukhiyas* or *Matwans* those who are knowledgeable and competent to run the model. The traditional verbal decision-making process should be recorded in the form of written minutes so that it can be referred to as evidence. Documentation would preserve information to help with similar conflict-related issues and could be passed down to the next generations. Developing a written body of knowledge can provide a learning tool for future generations following the tradition to better understand the community and its issues, potentially avoiding similar conflicts or facilitating prompt, professional resolution of those that do occur.

Tenth. The findings suggest that since rituals and festival celebrations used in Tharu community are instrumental in peacebuilding and conflict transformation, further research in this area is needed.

Eleventh. Further research is needed on improving and strengthening communication among the elderly, youth and women.

Conclusion

The study significantly contributes to the knowledge base in the field. For example the Tharu identity and their sense of security were expressed deeply by the participants and corroborated by the researcher observations and review of the

documents. Participants expressed that they felt a sense of security as members of the Tharu community while they felt unsafe as members of the State. Tharu peacebuilding rituals, model's changing nature, inclusion and dialogue, win-win resolution, reconciliation, restorative practices, non-Tharu participation, increasing and respected women and youth roles, and acceptance of the model from inside and outside are the significant findings of the study, which greatly contribute to the field.

The research findings are the outcome of six emergent themes: - Rituals /Festivals, Identity / Security, Inclusion/Dialogue, Structure/*Barghar-Mukhiya*, Process/Reconciliation Processes, and Participation /Acceptance. The research findings also identified the Strength/Challenges of the model. The findings developed a model called *Barghar-Mukhiya*.

The model is a democratic, consensus-based and inclusive model because all community members can be involved in reaching a win-win resolution. It has a bottom up approach because issues and conflicts are raised from the grassroots level and solved at the community level. The ultimate goal is achieving reconciliation. Restoration of social harmony is integrated into the model, which offers opportunities to correct social ills. Because the process is open to the public, it offers lessons of inclusiveness, flexibility and a sense of collective responsibility. The model's ability to maintain community harmony is strengthened through messages found in traditional dance, music, and rituals.

Compared to the current status of the formal justice, the Tharu model has no bureaucratic hassles. It is understood that *Barghar-Mukhiyas* are the local experts; they are in a better position to evaluate the facts and situations of members of their

community. Considering the economic and social circumstances of most conflict parties, it is wise to mediate those cases at the local level to avoid expenses and economic difficulties of the parties concerned. It is interesting to know the responses from the participants saying that when surrounding villages are in agreement, even murder cases can be settled in the village. However, this might not be a good idea because murder, rape, robbery etc., are too serious for mediation at the local level. In those cases, an adjudicator or judge needs to have certain technical knowledge that the *Barghar-Mukhiya* may not have.

Collective decision-making involves a maximum number of villagers in a committee. This is one of the strongest advantages of the model, which enhances and keeps the communal relationships intact. This model also illustrates the principle of communicative action theory developed by Habermass, in which decisions are made by consensus by efforts of the committee members along with *Barghar-Mukhiya*. The *Gamala*, *Jutela*, and *Khyala* meetings bind households to their community and culture. The *Barghar-Mukhiya* is authorized to perform social, economic, religious, and political functions.

The *Baghar-Mukhiya* indigenous conflict resolution model is important to Tharu's sense of ethnic identity, security and their self-esteem. For one, Nepal's government has been slow to recognize the merits of the model. Throughout Nepal history, the mainstream Nepalese state has marginalized and excluded Tharu people and culture through its state apparatus with Hindu caste ideology and power. At the village level, the landlords- *patwari-pahadiya* landlords and a few wealthier Tharu landlords have exploited the Tharu farmers. Although they are now illegal, *Kamaiya*, *Kamlari*, and

Haliya systems are still in practice, continuing to exploit economically disadvantaged Tharu. Tharu women are oppressed by the patriarchal Tharu system and have also been marginalized throughout history. Dalits are oppressed by upper caste people- sometimes by Tharu as well. Participation of Tharu youth is low, posing a risk to the continuation of the model among future generations. The Tharu indigenous model is integral to Tharu's cultural, social and economic life.

Preservation of Tharu tradition, culture and heritage should be a priority for Nepal's government. The new Constitution has a provision for a Tharu Welfare Commission to strengthen the Tharu community, but more actions are still needed for the commission to be established according to constitutional provisions. As mentioned in the Constitution, "women shall have an equal ancestral right without any gender-based discrimination." In this spirit, further steps should be taken so that women can be more involved in the process and included in the political system. Changing times and attitudes call for women to step into leadership roles in various organizations, from the village level to the federal level.

The Tharu' indigenous conflict resolution model must be recognized by Nepal's federal government as a step toward averting future conflicts. The model is based on collectivist values. Effective collaboration with local conflict resolution is also needed to strengthen the tribes' roles in local self-governance and reinforce the shared values and beliefs of the Tharu community. The researcher feels a tremendous sense of urgency to preserve the peacebuilding aspects of the Tharu's indigenous model for future generations and cultivate understanding among Tharu and non-Tharu communities. The model focuses on dialogue that can transform conflicts between individuals or groups.

Community- to- community-level dialogues are instrumental in peacebuilding. The insight gained from this process can apply in other contexts and cultures, such as with neighborhood disputes.

The model can be applied globally, but also in a local context where indigenous groups confront other groups. The model's core of restorative practices, forgiveness, reconciliation, and use of dialogue circles are useful approaches in the conflict resolution field. *Barghar-Mukhiya* and the committees help bring peace, harmony and reconciliation among the conflict parties by reaching prompt, well-accepted decisions.

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Appendix A: Interview/Focus Group Guide & Scripts

Tharu Barghar-Mukhiya Indigenous Model: A Case Study of the Tharu Community of Nepal

Semi-Structured Interview/Focus Group Guide & Scripts
(2014-2016)

The semi-structured interviews & focus group will be conducted with Tharu leaders.

For an interview and focus group, recruit Tharu leaders that meet the following criteria:
• Participants must be 18 years of age and of the Tharu ethnic group.
• Sample 1: Male & female Barghar-Mukhiya leaders or other leaders of the Tharu community, 18 years of age; lives in Bara, Dang and Bardiya District of Nepal.
• Sample 2: Male and female Tharu elected members of the Constituent Assembly (CA) of Nepal.
• Sample 3: Male & female Tharu leaders who did not participate in the individual interviews and who live in the Bara or Bardiya Districts can participate in the focus groups.

Interviewer: Ensure ALL the above criteria are met for an interview. If not, please thank the person and discontinue.

SCRIPT:

Hello. My name is Narayan B. Khadka.
We want do an interview with you to understand your experience working as Tharu leader in the community.
Before I start with an interview, first, let's go through the consent process. We would like to have your written consent for this interview. As mentioned in the consent form, whatever information you share with us or discuss during an interview will not be shared with anyone.

Interviewer:
Go through the consent form.
Ask the participant to sign the two copies of the consent form.
Keep one copy and give another copy to the participant.

SCRIPT:
 As mentioned in the consent form, I will tape record our conversation; this will help me to have an interactive conversation with you without worrying about missing information. During the interview, if you have any questions at any time, please feel free to ask.

Also, as mentioned in the consent form, you can discontinue the interview if you feel uncomfortable or do not feel like participating in the interview.

Interview No.: _____
Start time: _____ End time: _____
Date: _____

I. SOCIO-DEMOGRAPHICS

SCRIPT:
So, first I will start with some personal questions such as your age, education, your caste, religion, language, and other things.

Interviewer: Besides recording, write down the responses in this section.

II. Tharu Badghar-Mukhiya Indigenous Model & Your Experience

SCRIPT: Now moving on to your experience working with Tharu Badghar-Mukhiya Indigenous model

Interviewer:
1st step: First, Record:

2nd Step:

3rd Step:

Appendix B: Interview/Focus Group Questionnaire

I. Demographic Questions

1. What is your full name? _____

2. What is your age? _____ (*down in years*)

3. Are you employed: ◊ Yes ◊ No
   a. What do you do?
   b. If yes, where do you work? _____
4. What is your gender? _____
5. What is your religion? _____
6. What is your caste? _____
7. Which Tharu sub-groups are you belong to?_____
8. What languages do you speak?_____
9. What is your marital status? (Circle the option)
   a. Married
   b. Single
   c. Divorced
   d. Other
10. What about education; did you go to school: ◊ Yes ◊ No

    a. If yes, how many grades did you complete?
    _____
11. How many members live in this household (adults + children)?
_____

12. How many children do you have? _____
  a. What are their ages? 1st Child _____ 2nd Child _____ 3rd Child _____4th
Child _____
        5th Child _____
 13. Do you believe Tharu are the descendants of Sakyamuni Buddha?

II. Questions Regarding Tharu Badghar-Mukhiya Indigenous Model & Your Experience

14. What is your experience working as Badghar-Mukhiya or a Tharu leader?
15. What are the model's processes?
16. How do the decisions of Badghars-Mukhiyas impact the Tharu community?
17. How do the decisions of Badghars-Mukhiyas impact the non-Tharu community?
18. How does their model relate to the local formal justice system?
19. How does their model adopt to changing modern needs?
20. What role does gender play in maintaining their model?

21. What role does age play in maintaining their model?
22. What role does caste system play in maintaining their model?
23. What role does religion play in maintaining their model?
24. How does the Tharu Badghar-Mukhiya Indigenous Model contribute to local peace   building?
25. How does the concept of forgiveness contribute to the model?
26. How does the concept of reconciliation work in the model?
27. What roles do rituals and festivals play to build peace and harmony in the model?
III. Final Questions
 28. Do you have any things left to share? _____
 29. Do you have any questions for me? _____

Appendix C: Adult Consent Form for Research Study

Entitled: Tharu Badghar-Mukhiya Indigenous Model: *A Case Study of the Tharu Community of Nepal* **for Interview with Barghar-Mukhiya or other Tharu leaders**

Nova Southeastern University

Funding Source: None
IRB protocol #:

Principal Investigator:

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336-707-0592

For questions/concerns about your research rights, Contact:

Human Research Oversight Board

(Institutional Review Board or IRB)
Nova Southeastern University

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Basgadhi, Bardiya District,
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What is the study about?

You are invited to voluntarily participate in a research study, which intends to investigate the indigenous model of conflict resolution in the Tharu community known as Tharu Badghar-Mukhiya Indigenous Model. The goal is to understand the roles of indigenous justice and conflict resolution model in maintaining peace and harmony in the Tharu community.

Initials_____Date_____   1 of 4

Graduate School of Humanities and Social Sciences

Why are you asking me?

You have been invited to participate in an interview because you are (1) 18 years old; and (2) you are a Badghar-Mukhiya leader or other leader of the Tharu community who live in Bara, Dang, or Bardiya Districts, (3) an elected Tharu member of the Constituent Assembly (CA) of Nepal. The PI will be conducting a study of 80 participants. 40 individual subjects from Tharu community including Tharu CA members will participate in one-on-one semi-structured interviews and 40 individuals will participate in focus group.

What will I be doing if I agree to be in the study?
If you agree to participate in this study we will ask you to participate in an open-ended semi-structured individual interview. We will ask you about your experience working and participating in the Tharu Badghar-Mukhiya Indigenous Model. Interviews are anticipated to last no longer than two hours, and will be scheduled at a convenient time and location for the participants. You do not have to answer any questions that you are uncomfortable with and you may leave the interview session at any time. If during the interview the PI learned that you have a medical condition that makes you ineligible for the study, PI Mr. Narayan Khadka will end the interview.

Is there any audio/video recording?
This research project will include audio recording of the individual interview. Digital Sony's audio recorder will be used. These audio recording will be available to be heard by the principal investigator (PI), Narayan Khadka, personnel from the IRB, and the dissertation chair, Dr. Ismael Muvingi. PI Narayan Khadka will transcribe the recording. Mr. Khadka will use headphones while transcribing the interviews to guard your privacy. Both the audio data and transcripts will be saved on the principal investigator's computer with a password protection. The audio data and transcripts will be kept securely in a locked cabinet at the principal investigator's house located at 3728 Pemberton Way, High Point NC 27265. The recording will be kept for 36 months from the end of the study. The recording will be destroyed after that time by shredding the tape. Because your voice will be potentially identifiable by anyone who hears the recording, your confidentiality for things you say on the recording cannot be guaranteed although the researcher will try to limit access to the tape as described in this paragraph.
What are the dangers to me?
Risks to you are minimal, meaning they are not thought to be greater than other risks you experience everyday. Your interview and focus group responses will be kept strictly confidential, and will be used only to compile data for research purpose. You will not be asked to publicly divulge any aspect of your personal experience at any time.

There is the chance that you may experience discomfort with the research process. You may find that sharing your feelings about your experience may make you anxious or bring back unhappy memories. If that happens, PI Narayan Khadka will try to help calm and comfort you. However, you will never be required or pressured to reveal anything of a personal or sensitive nature. Although PI will encourage all participants not to share information or discuss their participation, this potential still exists. Information privacy may pose a risk to you. Specific measures to minimize privacy risks are discussed below. Lastly, although your voice is potentially identifiable to someone who hears the audio recording, your confidentiality will be protected as described. The possibility of breaching confidentiality issues is very unlikely based upon the procedures of securing information.

If you have any questions about the research, your research rights, or have a research-related injury, please contact Narayan Khadka at 9841510083 (local Nepal) or 336-707-0592(USA) or Dr. Ismael Muvingi at 954-262-3023. You may also contact Human Research Oversight Board (Institutional Review Board or IRB) Nova Southeastern University at the numbers indicated above with questions as to your research rights.
Are there any benefits to *me* for taking part in this research study?

There are no direct benefits to you in this study. There are, however, limited benefits to individuals partaking in the study. You will have the opportunity to share your experiences as a stakeholder of the model and to have your voice heard.
Will I get paid for being in the study?
There are no costs to you or payments made for participating in this study.
How will you keep my information private?
To avoid confidentiality issues, PI Narayan Khadka has established secure procedures to protect the identity of participants, which may prevent potential harm. The following procedures will be used to ensure confidentiality:
1. The PI will not use actual names for purposes of data analysis or for any aspect of the final published research report or any derivative publications that could be linked to the participant's identity.
2. All electronic data will be saved in a password protected computer accessible only by the PI.
3. All hardcopy information will be saved in a locked cabinet in the PI's home office.
4. If needed, pseudonyms will be used throughout the study and in the final text, with the exception of the consent form.
5. The PI will seek the participant's consent prior to sharing any information.
6. The PI will inform the participants that all information will be kept for three years after the completion of the study.

IMPORTANT NOTICE: All information obtained in this study is strictly confidential unless law requires disclosure. In addition, since the principal investigator is a doctoral student of Nova Southeastern University, Dissertation Chair Ismael Muvingi may review research records. The NSU IRB and regulatory agencies may also review research records.

What if I do not want to participate or I want to leave the study?

You have the right to refuse to participate or to leave the study at any time, without penalty or negative consequences. If you do withdraw, it will not affect you in any way. If you choose to withdraw, any information data collected from you before the date you leave the study will be securely confidentially retain in the research records for 36 months from the conclusion of the study and may be used as a part of the research.

Other Considerations

If significant new information relating to the study becomes available, which may relate to your willingness to continue to participate, this information will be provided to you by the Principal Investigator (PI).

Voluntary Consent by Participant:

By signing below, you indicate that:
  • this study has been explained to you
  • you have read this document or it has been read to you
  • your questions regarding this study have been answered
  • you have been told that you may ask the PI any study related questions in the future
  • you have been told that you may ask Institutional Review Board(IRB) personnel questions about your study rights
  • you are entitled to have a copy of this form after you have read and signed it
  • you voluntarily agree to participate in the study entitled 'Tharu Badghar-Mukhiya Indigenous Model: *A Case Study of the Tharu Community of Nepal'*

Participant's Signature _____   Date _____

Participant's Name (Print)_____
Date_____

Person Obtaining Consent _____
Date_____

Initials_____Date___

Appendix D: Adult Consent Form for Research Study

Entitled: Tharu Badghar-Mukhiya Indigenous Model: *A Case Study of the Tharu Community of Nepal* **For Interview with Tharu CA Members**

Nova Southeastern University

Funding Source: None
IRB protocol #:

Principal Investigator:

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Bara District,
Nepal, 0119779841510083

Hekuli Village Development
Committee (VDC), Ward
No. 4, Dang District, Nepal
0119779847908995

Deudakala Village Development
Committee (VDC), Ward No. 6
Basgadhi, Bardiya District,
Nepal
0119779841299088

What is the study about?
You are invited to voluntarily participate in a research study, which intends to investigate the indigenous model of conflict resolution in the Tharu community known as Tharu Badghar-Mukhiya Indigenous Model. The goal is to understand the roles of indigenous justice and conflict resolution model in maintaining peace and harmony in the Tharu community.

Initials_____Date_____   1 of 4

Graduate School of Humanities and Social Sciences
3301 College Avenue, Fort Lauderdale-Davie, Florida 33314-7796 | 800-541-6682, ext. 23000,email: shss@nsu.nova.edu, website: http://shss.nova.edu

Why are you asking me?

You have been invited to participate in an interview because you are (1) 18 years old; and (2) you are a Badghar-Mukhiya leader or other leader of the Tharu community who live in Bara, Dang, or Bardiya Districts, (3) an elected Tharu member of the Constituent Assembly (CA) of Nepal. The PI will be conducting a study of 80 participants. 40 individual subjects from Tharu community including Tharu CA members will participate in one-on-one semi-structured interviews and 40 individuals will participate in focus group.

What will I be doing if I agree to be in the study?
If you agree to participate in this study we will ask you to participate in an open-ended semi-structured individual interview. We will ask you about your experience working and participating in the Tharu Badghar-Mukhiya Indigenous Model. Interviews are anticipated to last no longer than two hours, and will be scheduled at a convenient time and location for the participants. You do not have to answer any questions that you are uncomfortable with and you may leave the interview session at any time. If during the interview the PI learned that you have a medical condition that makes you ineligible for the study, PI Mr. Narayan Khadka will end the interview.
Is there any audio/video recording?

This research project will include audio recording of the individual interview. Digital Sony's audio recorder will be used. These audio recording will be available to be heard by the principal investigator (PI), Narayan Khadka, personnel from the IRB, and the dissertation chair, Dr. Ismael Muvingi. PI Narayan Khadka will transcribe the recording. Mr. Khadka will use headphones while transcribing the interviews to guard your privacy. Both the audio data and transcripts will be saved on the principal investigator's computer with a password protection. The audio data and transcripts will be kept securely in a locked cabinet at the principal investigator's house located at 3728 Pemberton Way, High Point NC 27265. The recording will be kept for 36 months from the end of the study. The recording will be destroyed after that time by shredding the tape. Because your voice will be potentially identifiable by anyone who hears the recording, your confidentiality for things you say on the recording cannot be guaranteed although the researcher will try to limit access to the tape as described in this paragraph.

What are the dangers to me?

Risks to you are minimal, meaning they are not thought to be greater than other risks you experience everyday. Your interview and focus group responses will be kept strictly confidential, and will be used only to compile data for research purpose. You will not be asked to publicly divulge any aspect of your personal experience at any time.

Initials_____Date____   2 of 4

There is the chance that you may experience discomfort with the research process.
You may find that sharing your feelings about your experience may make you anxious or bring back unhappy memories. If that happens, PI Narayan Khadka will try to help calm and comfort you. However, you will never be required or pressured to reveal anything of a personal or sensitive nature. Although PI will encourage all participants not to share information or discuss their participation, this potential still exists. Information privacy may pose a risk to you. Specific measures to minimize privacy risks are discussed below. Lastly, although your voice is potentially identifiable to someone who hears the audio recording, your confidentiality will be protected as described. The possibility of breaching confidentiality issues is very unlikely based upon the procedures of securing information.

If you have any questions about the research, your research rights, or have a research-related injury, please contact Narayan Khadka at 9841510083 (local Nepal) or 336-707-0592(USA) or Dr. Ismael Muvingi at 954-262-3023. You may also contact Human Research Oversight Board (Institutional Review Board or IRB) Nova Southeastern University at the numbers indicated above with questions as to your research rights.

Are there any benefits to *me* for taking part in this research study?

There are no direct benefits to you in this study. There are, however, limited benefits to individuals partaking in the study. You will have the opportunity to share your experiences as a stakeholder of the model and to have your voice heard.
Will I get paid for being in the study?
There are no costs to you or payments made for participating in this study.
How will you keep my information private?
To avoid confidentiality issues, PI Narayan Khadka has established secure procedures to protect the identity of participants, which may prevent potential harm. The following procedures will be used to ensure confidentiality:
1. The PI will not use actual names for purposes of data analysis or for any aspect of the final published research report or any derivative publications that could be linked to the participant's identity.
2. All electronic data will be saved in a password protected computer accessible only by the PI.
3. All hardcopy information will be saved in a locked cabinet in the PI's home office.
4. If needed, pseudonyms will be used throughout the study and in the final text, with the exception of the consent form.
5. The PI will seek the participant's consent prior to sharing any information.
6. The PI will inform the participants that all information will be kept for three years after the completion of the study.

Initials_____Date_____   3 of 4

IMPORTANT NOTICE: All information obtained in this study is strictly confidential unless law requires disclosure. In addition, since the principal investigator is a doctoral student of Nova Southeastern University, Dissertation Chair Ismael Muvingi may review research records. The NSU IRB and regulatory agencies may also review research records.

What if I do not want to participate or I want to leave the study?

You have the right to refuse to participate or to leave the study at any time, without penalty or negative consequences. If you do withdraw, it will not affect you in any way. If you choose to withdraw, any information data collected from you before the date you leave the study will be securely confidentially retain in the research records for 36 months from the conclusion of the study and may be used as a part of the research.

Other Considerations

If significant new information relating to the study becomes available, which may relate to your willingness to continue to participate, this information will be provided to you by the Principal Investigator (PI).

Voluntary Consent by Participant:

By signing below, you indicate that:

- this study has been explained to you
- you have read this document or it has been read to you
- your questions regarding this study have been answered
- you have been told that you may ask the PI any study related questions in the future
- you have been told that you may ask Institutional Review Board(IRB) personnel questions about your study rights
- you are entitled to have a copy of this form after you have read and signed it
- you voluntarily agree to participate in the study entitled 'Tharu Badghar-Mukhiya Indigenous Model: *A Case Study of the Tharu Community of Nepal'*

Participant's Signature _____   Date _____

Participant's Name (Print)_____
Date_____

Person Obtaining Consent_____

Date_____Initials_____Date__   4 of 4

Appendix E: Adult Consent Form for Research Study

Entitled: Tharu Badghar-Mukhiya Indigenous Model: *A Case Study of the Tharu Community of Nepal* **For Focus Group Participants**

Nova Southeastern University

Funding Source: None
IRB protocol #:

Principal Investigator:

Narayan Khadka
3738 Pemberton Way
High Point NC 27265
Nk229@nova.edu
khadkapeace@gmail.com
336-707-0592

For questions/concerns about your research rights, Contact:
Human Research Oversight Board

(Institutional Review Board or IRB)
Nova Southeastern University
(954) 262-5369/Toll Free: 866-499-0790
IRB@nsu.nova.edu

Co-Investigator

Dr. Ismael Muvingi,
Chair
3301 College Avenue
Maltz Building, Nova Southeastern University, Davie, FL
954-262-3023
im283@nova.edu

Sites Information

Sapahi VDC Ward No. 9 , Bara Nepal, 0119779841510083

Hekuli Village Development Committee (VDC), Ward No. 4, Dang District, Nepal 0119779847908995

Deudakala Village Development Committee (VDC), Ward No. 6 Basgadhi, Bardiya District, Nepal 0119779841299088

What is the study about?
You are invited to voluntarily participate in a research study, which intends to investigate the indigenous model of conflict resolution in the Tharu community known as Tharu Badghar-Mukhiya Indigenous Model. The goal is to understand the roles of indigenous justice and conflict resolution model in maintaining peace and harmony in the Tharu community.

Initials_____Date_____   1 of 4

Graduate School of Humanities and Social Sciences
3301 College Avenue, Fort Lauderdale-Davie, Florida 33314-7796 | 800-541-6682, ext. 23000,email: shss@nsu.nova.edu, website: http://shss.nova.edu

Why are you asking me?
You have been invited to participate in a focus group because you are (1) 18 years old; and (2) you are a Badghar-Mukhiya leader or other leader of the Tharu community who live in Bara or Bardiya District; (3) and you did not participate in an individual interview. The PI will be conducting a study of 80 participants. 40 individual subjects including Tharu Constituent Assembly (CA) members from Tharu community will participate in one-on-one semi-structured interviews and 40 individuals will participate in focus group.

What will I be doing if I agree to be in the study?
If you agree to participate in this study we will ask you to participate in a focus group.We will ask you about your experience working and participating in the Tharu Badghar-Mukhiya Indigenous Model. Focus group are anticipated to last no longer than two hours, and will be scheduled at a convenient time and location for the participants. You do not have to answer any questions that you are uncomfortable with and you may leave the focus group at any time. If during the focus group the PI learned that you have a medical condition that makes you ineligible for the study, PI Mr. Narayan Khadka will end the focus group.

Is there any audio/video recording?
This research project will include audio recording of the focus group. Digital Sony's audio recorder will be used. These audio recording will be available to be heard by the principal investigator (PI), Narayan Khadka, personnel from the IRB, and the dissertation chair, Dr. Ismael Muvingi. PI Narayan Khadka will transcribe the recording. Mr. Khadka will use headphones while transcribing the responses of focus group to guard your privacy. Both the audio data and transcripts will be saved on the principal investigator's computer with a password protection. The audio data and transcripts will be kept securely in a locked cabinet at the principal investigator's house located at 3728 Pemberton Way, High Point NC 27265. The recording will be kept for 36 months from the end of the study. The recording will be destroyed after that time by shredding the tape. Because your voice will be potentially identifiable by anyone who hears the recording, your confidentiality for things you say on the recording cannot be guaranteed although the researcher will try to limit access to the tape as described in this paragraph.

What are the dangers to me?
Risks to you are minimal, meaning they are not thought to be greater than other risks you experience everyday. Your focus group responses will be kept strictly confidential, and will be used only to compile data for research purpose. You will not be asked to publicly divulge any aspect of your personal experience at any time. However, since you will participate in a focus group, there is the potential that you will lose a degree of anonymity and confidentiality as a result of publicly participating. There is the chance that you may experience discomfort with the research process.

You may find that sharing your feelings about your experience may make you anxious or bring back unhappy memories. If that happens, PI Narayan Khadka will try to help calm and comfort you.

However, you will never be required or pressured to reveal anything of a personal or sensitive nature. Although PI will encourage all participants not to share information or discuss their participation, this potential still exists. Information privacy may pose a risk to you. Specific measures to minimize privacy risks are discussed below. Lastly, although your voice is potentially identifiable to someone who hears the audio recording, your confidentiality will be protected as described. The possibility of breaching confidentiality issues is very unlikely based upon the procedures of securing information.

If you have any questions about the research, your research rights, or have a research-related injury, please contact Narayan Khadka at 9841510083 (local Nepal) or 336-707-0592(USA) or Dr. Ismael Muvingi at 954-262-3023. You may also contact Human Research Oversight Board (Institutional Review Board or IRB) Nova Southeastern University at the numbers indicated above with questions as to your research rights.

Are there any benefits to *me* for taking part in this research study?
There are no direct benefits to you in this study. There are, however, limited benefits to individuals partaking in the study. You will have the opportunity to share your experiences as a stakeholder of the model and to have your voice heard.
Will I get paid for being in the study?
There are no costs to you or payments made for participating in this study. Snacks and beverages will be offered at focus group as a courtesy for participation.
How will you keep my information private?
To avoid confidentiality issues, PI Narayan Khadka has established secure procedures to protect the identity of participants, which may prevent potential harm. The following procedures will be used to ensure confidentiality:
1. The PI will not use actual names for purposes of data analysis or for any aspect of the final published research report or any derivative publications that could be linked to the participant's identity.
2. All electronic data will be saved in a password protected computer accessible only by the PI.
3. All hardcopy information will be saved in a locked cabinet in the PI's home office.
4. If needed, pseudonyms will be used throughout the study and in the final text, with the exception of the consent form.
5. The PI will seek the participant's consent prior to sharing any information.
6. The PI will inform the participants that all information will be kept for three years after the completion of the study.

Initials_____Date____   3 of 4

IMPORTANT NOTICE: All information obtained in this study is strictly confidential unless law requires disclosure. In addition, since the principal investigator is a doctoral student of Nova Southeastern University, Dissertation Chair Ismael Muvingi may review research records. The NSU IRB and regulatory agencies may also review research records.

What if I do not want to participate or I want to leave the study?
You have the right to refuse to participate or to leave the study at any time, without penalty or negative consequences. If you do withdraw, it will not affect you in any way. If you choose to withdraw, any information data collected from you before the date you leave the study will be securely confidentially retain in the research records for 36 months from the conclusion of the study and may be used as a part of the research.

Other Considerations

If significant new information relating to the study becomes available, which may relate to your willingness to continue to participate, this information will be provided to you by the Principal Investigator (PI).

Voluntary Consent by Participant:

By signing below, you indicate that:
- this study has been explained to you
- you have read this document or it has been read to you
- your questions regarding this study have been answered
- you have been told that you may ask the PI any study related questions in the future
- you have been told that you may ask Institutional Review Board (IRB) personnel questions about your study rights

- you are entitled to have a copy of this form after you have read and signed it
- you voluntarily agree to participate in the study entitled 'Tharu Badghar-Mukhiya Indigenous Model: *A Case Study of the Tharu Community of Nepal'*

Participant's Signature _____   Date _____

Participant's Name (Print)_____
Date_____

Person Obtaining Consent _____
Date_____
Initials_____Date___   4 of 4

Appendix F: Recruitment Letter

Nova Southeastern University

Date:
Address:

Re**:** *Tharu Badghar-Mukhiya Indigenous Model: A Case Study of the Tharu Community of Nepal*

Dear Potential Participant,

I hope this finds you well. My name is Narayan Khadka. I have served at Senior Resources of Guilford as Refugee Outreach Coordinator for many years in USA. I am in the final stages of completing my Ph.D. degree in Conflict Analysis and Resolution, with a concentration in International Peace & Conflict. This winter, I will be compiling research information to complete my doctoral dissertation, using a case study of Tharu Indigenous Model dealing with conflicts in Bara, Dang and Bardiya Districts. I am contacting you because I would like to invite you to participate in my dissertation research.

Specifically, I will be examining the Tharu Badghar-Mukhiya Indigenous Model practiced at Bara, Dang and Bardiya districts of Nepal, a focused and bounded phenomenon embedded in its context. Tharu's own practice of reconciliation and healing, and restorative justice and rituals are significant to resolving inter-personal and inter-groups conflicts that will be explored.
For this case study there will be three components of data collection: (1) semi-structured one-on-one interviews (total 40 participants) and focus groups (total 40 participants), (2) non-participant observations, and (3) collection of documents and archival material.
After individual interviews, focus groups with Tharu community leaders who would not have participated in individual interviews will be conducted in Kalaiya, Bara District and in Guleriya, Bardiya District.

I will also be observing the participants' cultures, interactions, and conversations, women's roles in family, in the community and within the Tharu Badghar-Mukhiya indigenous model, Tharu's traditions, celebrations, festivals and rituals, Tharu people's inter-personal conflict dynamics, and roles of women and elderly within the decision making process of the Tharu Badghar-Mukhiya Indigenous Model. I will collect archive documents and archival materials about Tharu culture and traditions relating to the Tharu Badghar-Mukhiya Indigenous Model found in your houses.

No record of your participation will be kept except in my personal research notes and files, which will remain permanently confidential. This project has also been thoroughly reviewed, critiqued and approved by the Nova Southeastern University Institutional Review Board, whose sole purpose is to ensure the safety of all research participants. I sincerely hope that you will participate in this study. It is of utmost importance to us that you receive complete clarification regarding any questions or concerns that you may have prior to signing the consent form. You are welcome to contact me at any time using my contact information below.

I genuinely appreciate your time and consideration, and look forward to hearing from you.

With warm regards,

Narayan Khadka

Doctoral Candidate
Nova Southeastern University
Graduate School of Humanities & Social Sciences
Department of Conflict Analysis & Resolution
3301 College Avenue
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9841510083 (local Nepal) or
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