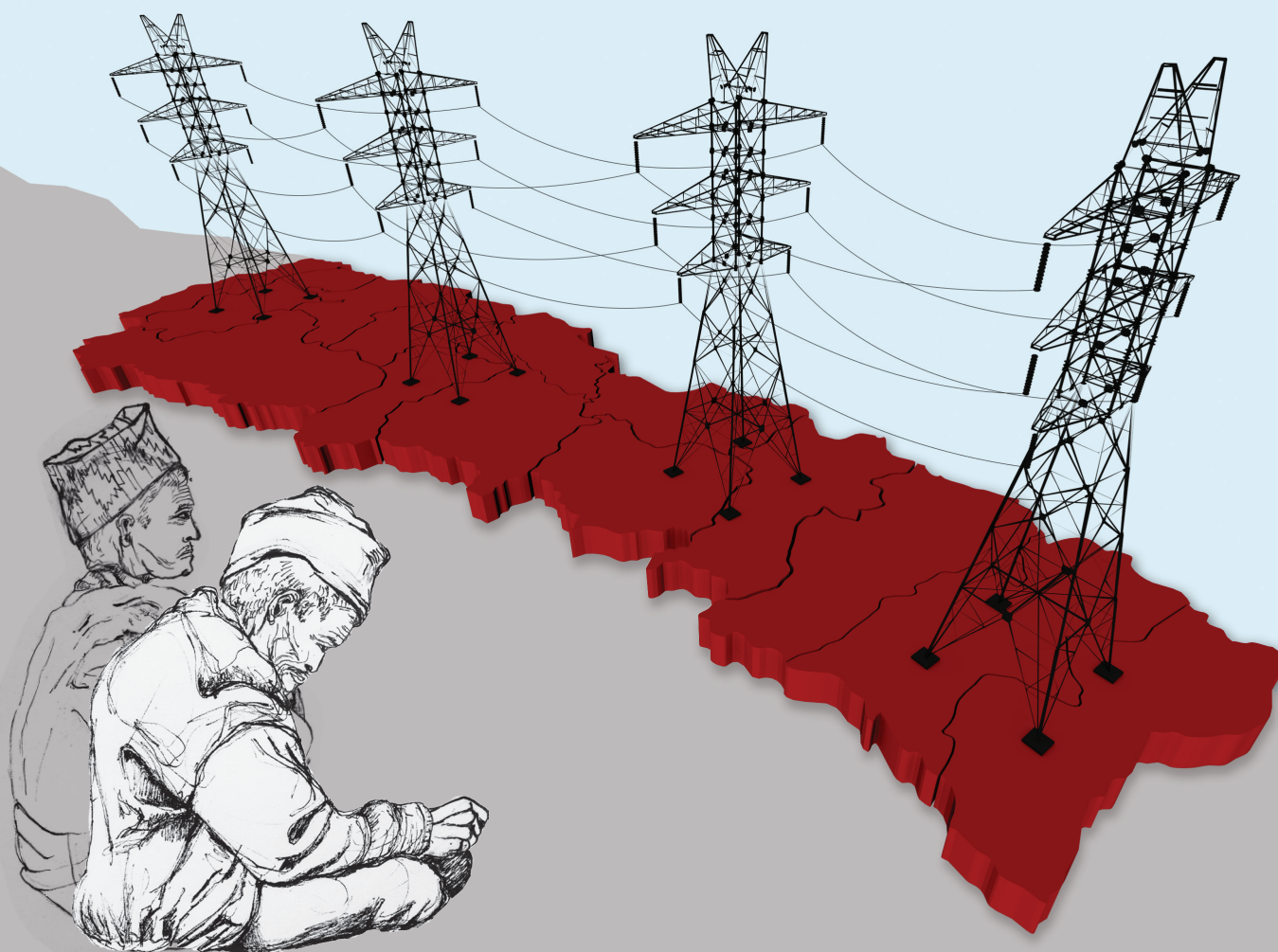


INTERNATIONAL BEST PRACTICES FOR HIGH VOLTAGE TRANSMISSION LINES

FREE PRIOR AND INFORMED CONSENT (FPIC) AND RIGHTS FORUM, LAMJUNG DISTRICT (NEPAL)



What is Free Prior and Informed Consent (FPIC)?

FPIC means communities, especially Indigenous Peoples, have a right to say yes or no about projects that affect them and their way of life. The principles of FPIC are consistent with Nepal's Constitution, and clearly stated in international legal instruments such as the United Nations Declaration on the Rights of Indigenous Peoples, and International Labour Organization Convention No. 169, which are incorporated into Nepali law.

Meaning of Free, Prior and Informed Consent (FPIC)

Each of the words in FPIC have a specific meaning:

- **'Free'** means there should be no coercion, intimidation, manipulation or pressure on communities to accept the project.
- **'Prior'** means that permission for any project is obtained as early as possible and includes time for communities to undertake their own decision-making processes.

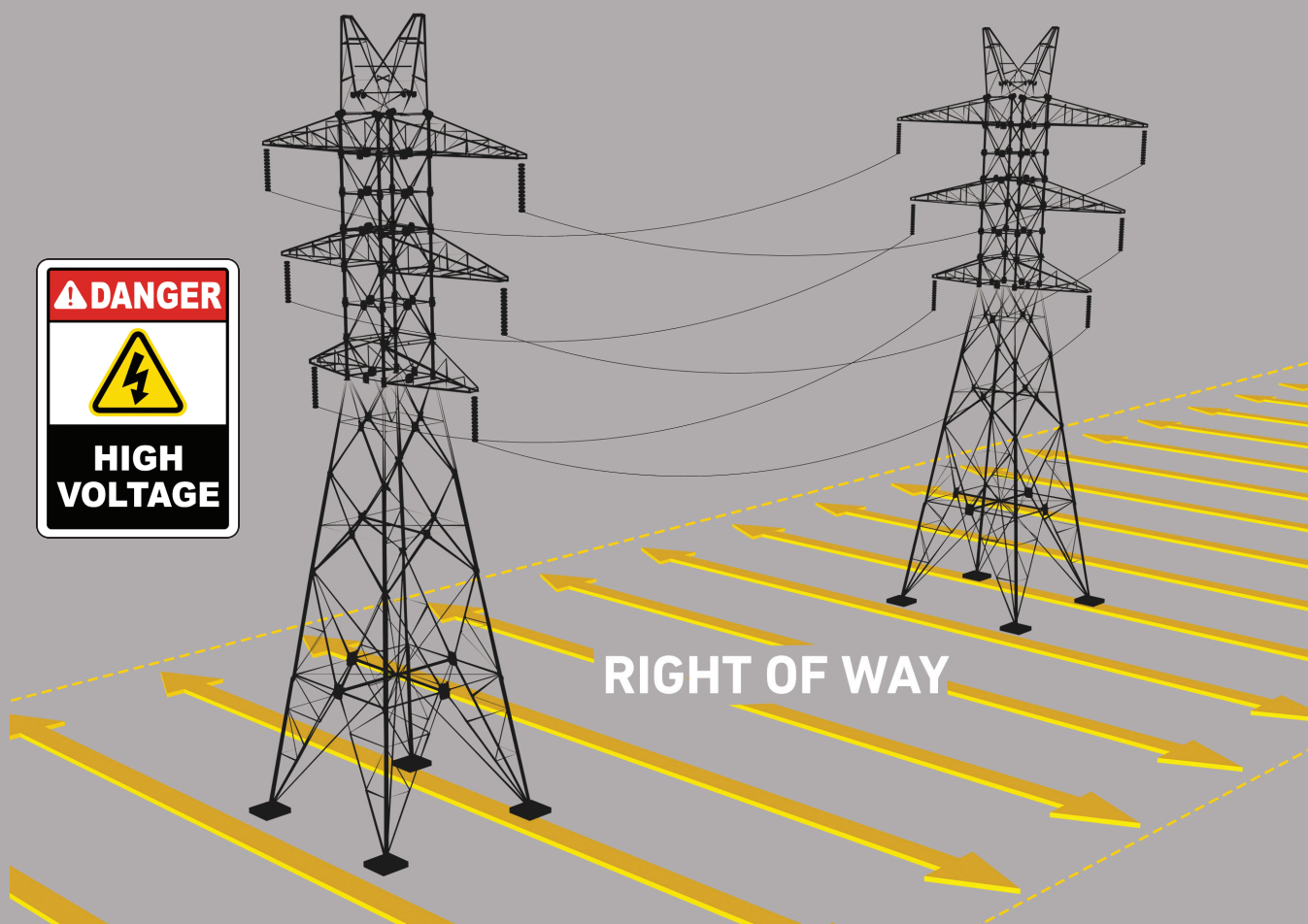
- **'Informed'** means affected communities must be given full information about the project in a way that is understandable to them. Communities should also be allowed to ask any questions. The project and government has to answer communities' questions.

- **'Consent'** means the affected communities have agreed to the project. Sometimes to get community consent, the project company has to first make changes to ensure there is no harm to affected communities.



This information booklet compares policies and practices in Nepal with best practices from other countries. You can use this information to demand your rights from transmission line projects that are affecting you.

WHAT IS A HIGH VOLTAGE TRANSMISSION LINE?



A high voltage transmission line is used to transport large amounts of electricity over long distances. Usually, lines over 110 kV (such as 132 kV, 220 kV, and 400 kV) are used for long distances and are called high voltage transmission lines. In contrast, lower voltage lines of 11 kV or 33 kV are used for shorter distances and are called distribution lines. Lines can be built below or above ground. Building transmission lines above ground is much cheaper.

An above ground transmission line includes “towers”, which are tall metal structures with

four legs. Thick wires are passed in between the top of towers and hang above the ground. High voltage electricity passes through these wires.

Land under the towers and land in between towers – below the wires – is affected by the transmission line. For this reason, a specified area of land along the entire path of the transmission line is marked off as a “Right of Way”.

The Right of Way is usually defined as a specific distance on either side of the center of the transmission line.

IMPACTS OF TRANSMISSION LINES



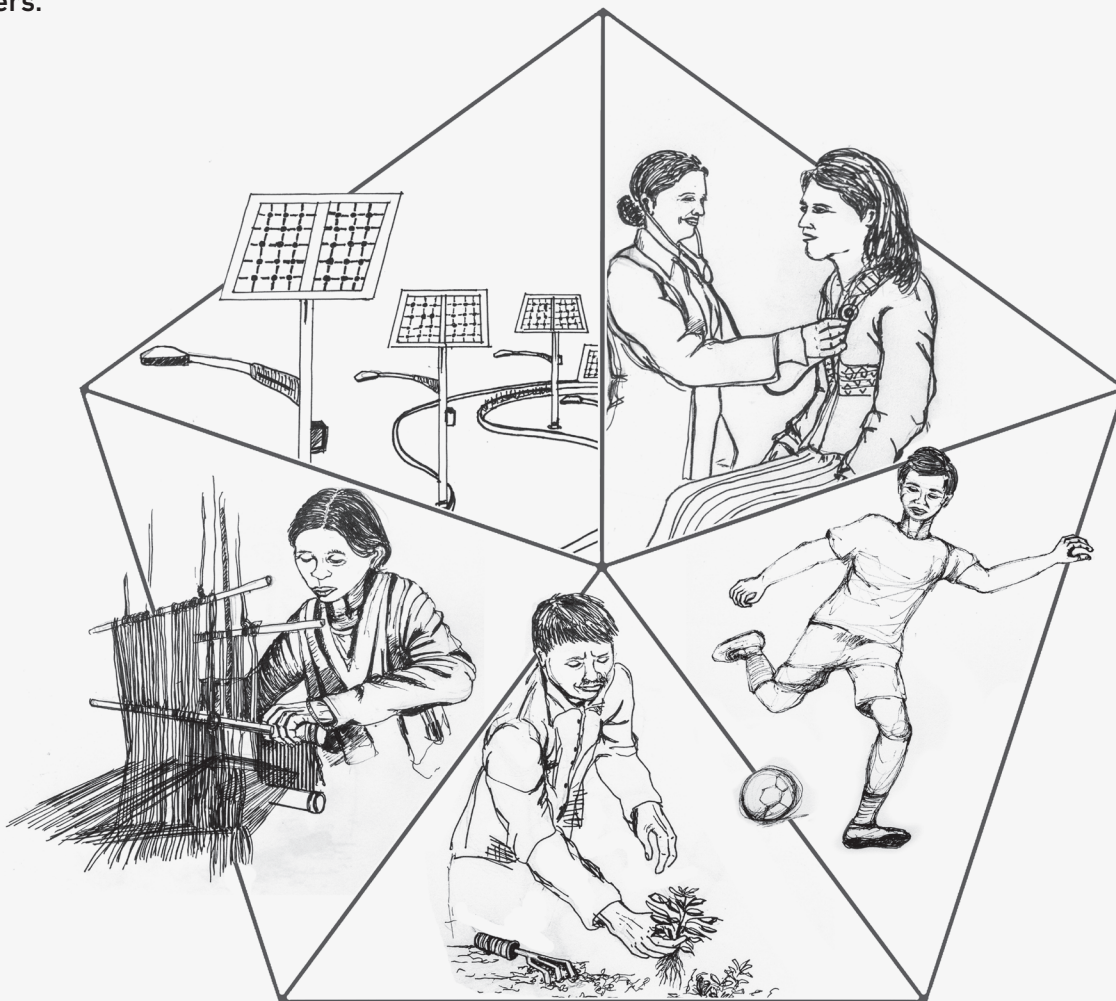
Many communities affected by transmission lines are concerned about the following potential negative impacts:

- Lack of information disclosure and consultation about the project and its impacts;
- Lack of Free, Prior, and Informed Consent for the project from affected communities, especially Indigenous Peoples;
- The project taking land, or putting restrictions on how locals can use their land;
- Devaluation of local peoples' property values;
- Difficulty to secure mortgages for affected land;
- Lack of adequate compensation for affected land;
- Impacts on livelihoods of local people;
- Impacts on community resources, including schools, temples, sacred sites, etc.;
- Environmental impacts, including cutting trees and electrocution of birds and animals;
- Safety fears about toppling of towers, electrocution by wires, and increased lightning;
- Negative aesthetic impacts and sound pollution; and
- Fears about impacts of electromagnetic radiation on the health of people, livestock, and crops.

PROVIDE GENEROUS COMMUNITY-LEVEL BENEFITS

Many transmission line companies in Europe provide community-level benefits to communities affected by transmission lines. These community-level benefits are often given to local governments, municipalities or community groups. **They are provided in addition to any compensation provided to individual land owners.**

The money is used for projects that increase community wellbeing, like community health programmes, rural electrification, livelihoods training, and youth welfare. In most cases, the communities can negotiate with the transmission line company about what benefits they want.



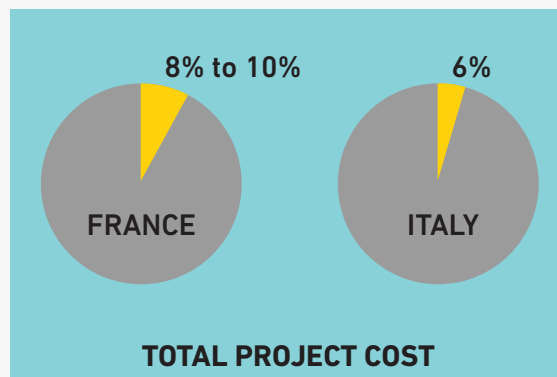
Recommendations for Nepal

Project companies should provide community payments to relevant local governments and traditional Indigenous leadership systems. The payments must be based on clear laws and policies setting out the formula for the amount of money to be paid, activities the money can be used for, and timing of payments.

Calculation of community-level benefits

Some countries, such as Ireland and Germany, pay communities a fixed amount (for example, € 15,000 to 40,000) per kilometer of the line that goes through a community.

Other countries, such as France and Italy, estimate the entire project costs and set aside a percentage (for example, 6% to 10%) solely for community benefits.

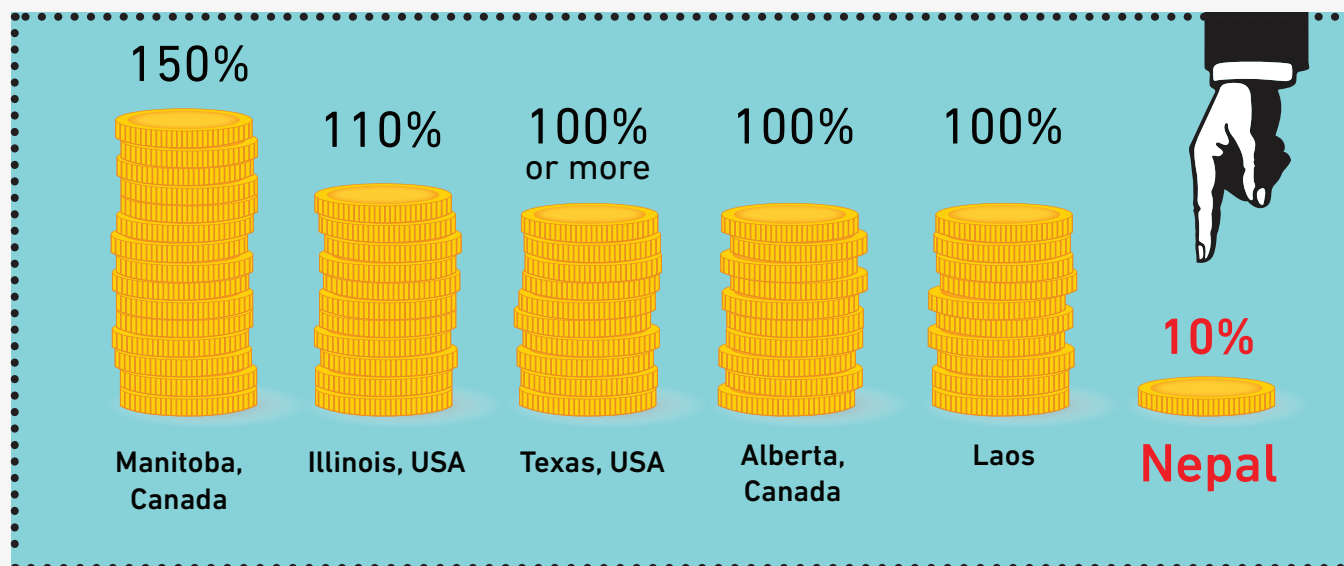


PROVIDE FAIR COMPENSATION TO INDIVIDUALS

% of Compensation

Usually, some compensation is provided to communities in the Right of Way of the transmission line. Many countries provide compensation to land owners worth 100% or more of the “market value” of the land. The market value or rate is set for a village or community by an independent estimator in a fair and transparent manner.

Sometimes a person can negotiate for a higher price if their land is worth more, but they have to provide valid reasons why. For example, they can show their land is close to shops in the village so should be worth more.



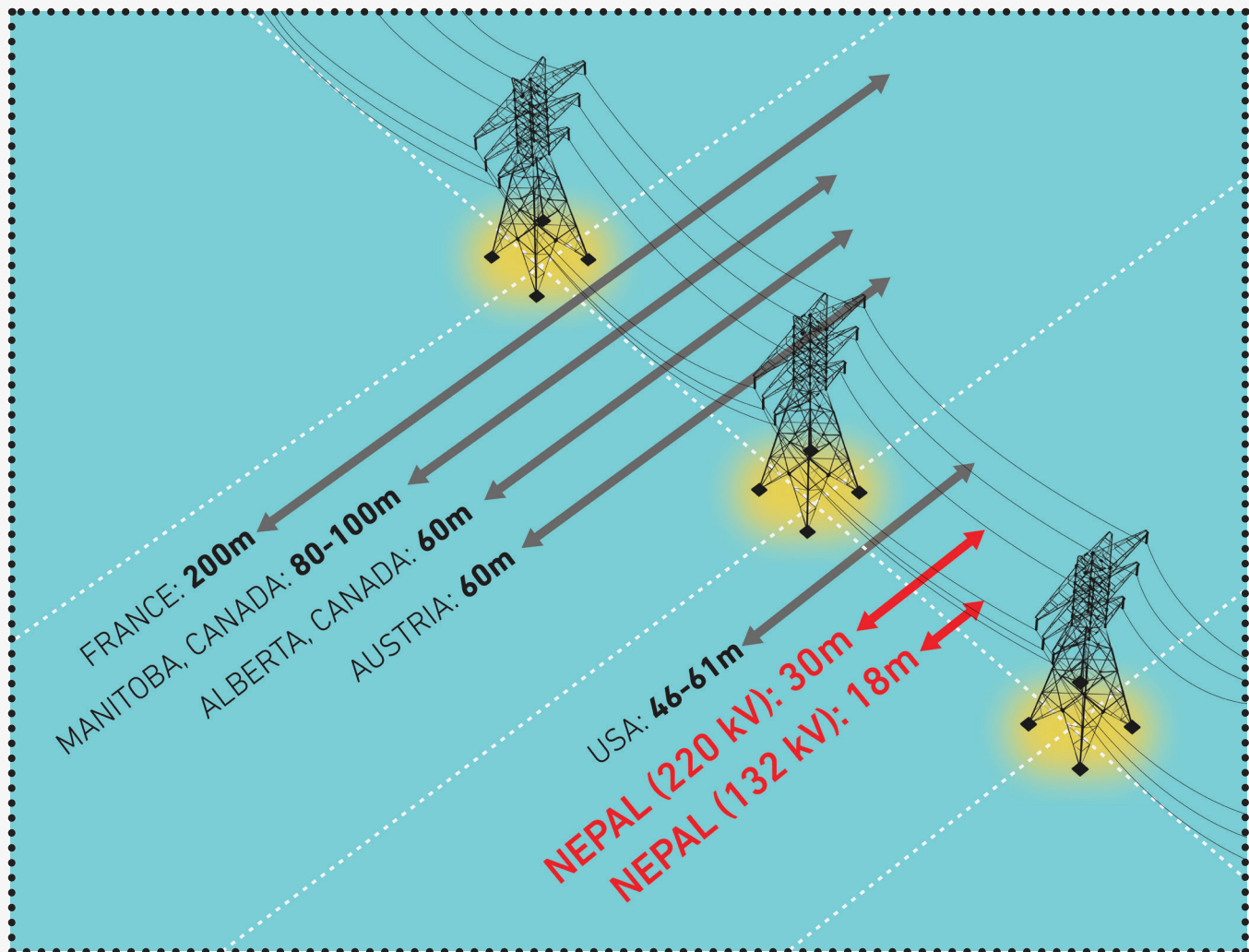
Recommendations for Nepal

The current Nepali practice of providing 10% compensation for land under the Right of Way is too low. The government should make a policy to provide 100% or more compensation for the entire line. This will make Nepal in line with international best practices.

Width of Right of Way

The total width of a Right of Way means how much land is on either side of the transmission line. If the Right of Way width is larger, more land is considered affected, and more people are likely to become eligible for compensation. The practice in Nepal tends to be a total Right of Way width

of 18 metres for 132 kV transmission lines, 30 metres for 220 kV transmission lines, and 45 metres for larger transmission lines. As the picture below shows, the Right of Way in other jurisdictions in Europe and North America tends to be wider.



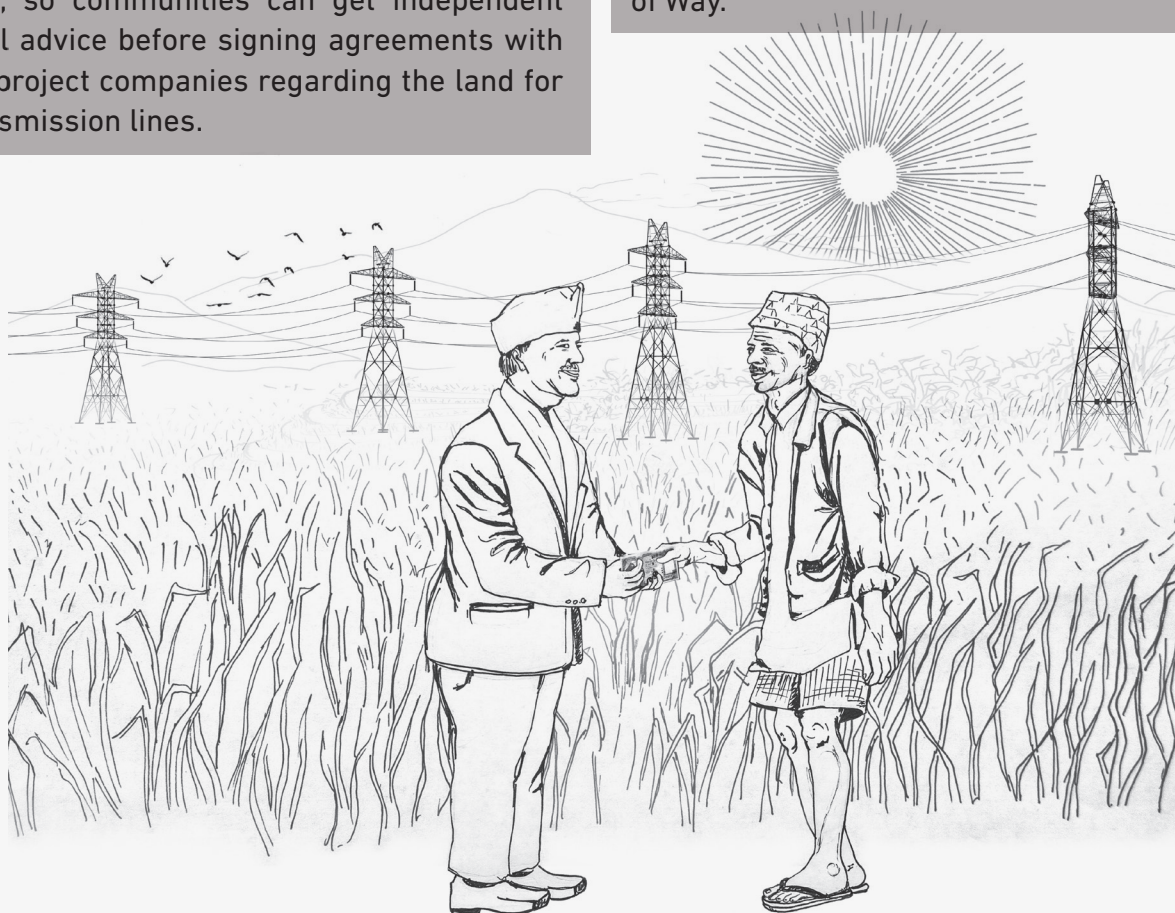
Recommendations for Nepal

The Right of Way for all high voltage transmission lines in Nepal should be increased to 60 metres as a minimum.

Other payments

In addition to compensation for land, affected landholders also receive “other payments” in many countries. In New Zealand, Canada, and USA, transmission line developers have to compensate for any damage to property, crops, and livestock. Some also provide lawyers’ fees, so communities can get independent legal advice before signing agreements with the project companies regarding the land for transmission lines.

In Ireland, anyone who has a house within 200 metres of the transmission line receives a “proximity payment” even if their land is not in the Right of Way. This recognises that people who live near the transmission line are affected even if they are not in the Right of Way.



Devaluation of Land

Parcels of land under and near transmission lines lose value for a variety of reasons. For example, transmission lines fragment larger parcels of land into smaller, less usable, portions, devaluing the entire property. As a result, in some places (such as Minnesota, USA), landholders can sell their entire land parcel to the project company, and use that money to buy equivalent land elsewhere.

Land near transmission lines also lose value because many people do not want to stay near transmission lines. Some states (such as New Zealand, and Ontario, Canada) have ways to calculate and provide compensation for devaluation of land.

Recommendations for Nepal

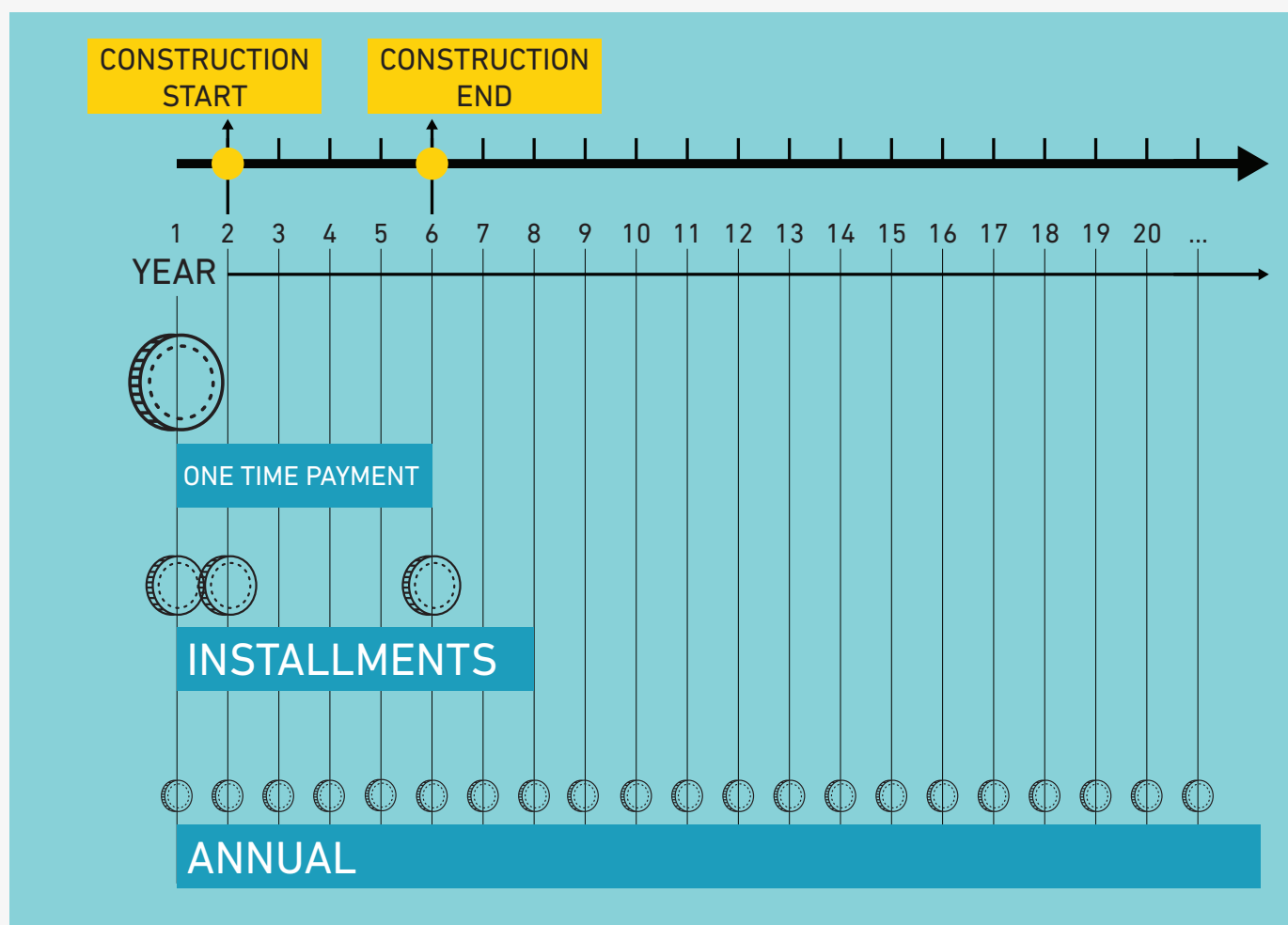
Payments for devaluation of land, and other impacts, should also be provided in Nepal.

TIMING OF COMPENSATION PAYMENTS

One-time, installments, or periodic

Currently, in Nepal, compensation payments are typically made lump sum, before construction starts on the land. However, in other jurisdictions, individuals and communities are given options to choose their payment timings. Some project companies offer to give annual payments for the life of the transmission line (such

as in USA and Canada). Payments can also be made in installments at key events, like the: signing of contract between landowner and project; start of construction; and when the line is electrified (such as in Ireland and Italy).



Recommendations for Nepal

Government should have a law that allows communities to choose between one-time payments, annual payments, or payments in installments.

LISTENING TO WOMEN ABOUT THEIR ISSUES

Construction of transmission lines can have negative impacts that are different for women and men. For example:

- Compensation for land use is generally paid to men, even though women use the land to grow food and collect firewood;
- Outside workers sometimes create problems for women; and
- Transmission line projects mostly employ men, so fewer jobs are created for women.

Recommendations for Nepal

Project companies and government should:

- Have a separate ongoing dialogue with women, especially elderly women, uniquely-abled women, Indigenous women, Dalit women, women-led households, and young women.
- Provide targeted benefits for women in livelihood support, training, safety nets, health, and legal sensitisation.



ABOUT THIS BOOKLET

The Free Prior and Informed Consent (FPIC) and Rights Forum, Lamjung District (Nepal) asked the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) and Accountability Counsel to prepare this booklet. The information in this booklet draws from a

report titled "International best practices to secure local community consent for high voltage transmission lines" written by LAHURNIP and Accountability Counsel. For more information, including source materials, please review the detailed report.

ABOUT THE FPIC AND RIGHTS FORUM, LAMJUNG DISTRICT (NEPAL)

The FPIC and Rights Forum is a grouping of local peoples in Lamjung District of Nepal. The peoples in Lamjung district are affected by multiple hydropower projects and transmission lines. For example, the European Investment Bank funded 220kV Marsyangdi Corridor and the Bhulbhule Mid-Marsyangdi 132 kV transmission line.

without consultation or agreement of locally affected peoples. At the village level, many Struggle Committees have been formed. The FPIC and Rights Forum is the umbrella organisation of the local Struggle Committees. Together they are demanding the hydropower sector projects respect their rights as required under Nepali and international law.

Local peoples are concerned that hydropower sector projects are being built in the district





About LAHURNIP

LAHURNIP is a Kathmandu, Nepal based organisation of Indigenous lawyers. LAHURNIP provides free legal aid services and works to promote, protect, and defend the human rights of Indigenous Peoples in Nepal.



About Accountability Counsel

Accountability Counsel is a United States based organisation which amplifies the voices of communities around the world to protect their human rights and environment. As advocates for people harmed by internationally financed projects, Accountability Counsel uses community driven strategies to demand justice.