

The Basic Operating Guidelines:

A Guide for Practitioners and Signatories



United Nations



European Commission



MINISTRY OF FOREIGN AFFAIRS OF DENMARK
Danish International
Development Assistance



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Association of International NGOs in Nepal

Basic Operating Guidelines agreed to by Undersigned Agencies in Nepal

Based on principles agreed internationally and in Nepal, we the undersigned have adopted the following Basic Operating Guidelines for all development and, if necessary, humanitarian assistance in Nepal.

1. We are in Nepal to contribute to improvements in the quality of life of the people of Nepal. Our assistance focuses on reducing poverty, meeting basic needs and enabling communities to become self-sufficient.
2. We work through the freely expressed wishes of local communities, and we respect the dignity of people, their culture, religion and customs.
3. We provide assistance to the poor and marginalized people of Nepal, regardless of where they live and who they are. Priorities for assistance are based on need alone, and not on any political, ethnic or religious agenda.
4. We ensure that our assistance is transparent and we involve poor people and their communities in the planning, management and implementation of programmes. We are accountable to those whom we seek to assist and to those providing the resources.
5. We seek to ensure that our assistance tackles discrimination and social exclusion, most notably based on gender, ethnicity, caste and religion.
6. We recruit staff on the basis of suitability and qualification for the job, and not on the basis of political or any other considerations.
7. We do not accept our staff and development partners being subjected to violence, abduction, harassment or intimidation, or being threatened in any manner.
8. We do not work where staff are forced to compromise core values or principles.
9. We do not accept our assistance being used for any military, political or sectarian purposes.
10. We do not make contributions to political parties and do not make any forced contributions in cash or kind.
11. Our equipment, supplies and facilities are not used for purposes other than those stated in our programme objectives. Our vehicles are not used to transport persons or goods that have no direct connection with the development programme. Our vehicles do not carry armed or uniformed personnel.
12. We do not tolerate the theft, diversion or misuse of development or humanitarian supplies. Unhindered access of such supplies is essential.
13. We urge all those concerned to allow full access by development and humanitarian personnel to all people in need of assistance, and to make available, as far as possible, all necessary facilities for their operations, and to promote the safety, security and freedom of movement of such personnel.
14. We expect and encourage all actors concerned to comply strictly with international humanitarian principles and human rights law.



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About this Manual

This manual was designed as a training resource for use by the signatories to the Basic Operating Guidelines (BOGs) and our implementing partners when conducting training on the guidelines. The manual is written in the first person plural for ease of training and translation into Nepali (i.e., the terms 'we' and 'us' are used to refer to the BOGs signatories).

Part 1 gives an overview of the BOGs, including their origin and purpose, followed by Part 2, which explains the four fundamental principles that underpin the BOGs (accountability, transparency, impartiality and inclusiveness). Part 3 gives a detailed explanation of each of the 14 points in the guidelines and Part 4 sets out the answers to some frequently asked questions. Finally, Part 5 outlines the organisational structure supporting the BOGs.

As well as a training resource, this manual will be available from the United Nations Nepal Information Platform (www.un.org.np) for signatories, implementing partners, the government, communities and any other interested party to download. It is hoped that this resource will help people to understand why the BOGs were developed, the commitment embodied in the BOGs, and their use in terms of protecting people and operational space for development.

Part 1: Overview

Introduction

The Basic Operating Guidelines (BOGs) relate to the behaviour and standards that we, the BOGs signatories, expect from ourselves as development organisations, our implementing partners and other actors in the communities in which we and our implementing partners work. The BOGs are considered a statement of principles. They are intended to offer BOGs signatories, our staff and our implementing partners protection from any challenges to operational space for development. They also make us and our implementing partners responsible for working in a way that is transparent, accountable, impartial and inclusive (the four fundamental principles). The signatories to the BOGs often think only of the protection that the guidelines offer, but it is important to bear in mind the responsibility that the signatories have to implement and respect the guidelines. The BOGs are designed to remind development organisations that our aim is to improve the lives of the people of Nepal, while working in coordination with, and respecting the priorities of, the Government of Nepal. The guidelines are one of the main tools that the BOGs signatories, including the United Nations, donors, and national and international non-governmental organisations (NGOs/INGOs), have for protecting operational space for development (i.e., the environment in which we work). The BOGs also remind us why we are working in Nepal, how we should work and what we are trying to achieve. The BOGs are based on established and accepted international humanitarian principles and international legal standards. The principles expressed in the BOGs are not exclusively applicable to Nepal – they are considered best practice wherever development organisations work.

Origin

The Basic Operating Guidelines were introduced in Nepal in 2003, in the context of the internal armed conflict between the State and the then Communist Party of Nepal (Maoist), and were revised with minor changes to the wording in 2007. The armed conflict was having a negative effect on operational space for development organisations, and the BOGs were developed as a way of keeping operational space open and ensuring the security of staff. They allowed development work to continue by clearly explaining the operating principles to all actors concerned in a clear and comprehensible way. There were initially ten signatories to the BOGs – the European Commission, Danish International Development Assistance (Danida), Swiss Agency for Development and Cooperation (SDC), Canadian International Development Agency (CIDA), the Norwegian Embassy, the Department for International Development of the United Kingdom (DFID), Japan International Cooperation Agency (JICA), Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), the Embassy of Finland and Netherlands Development Organisation (SNV). The United Nations in Nepal initially had its own Basic Operating Guidelines, which were drafted in 2003. Likewise, the Association of International NGOs in Nepal (AIN) had a Code of Conduct and some of the other donors had a set of basic operating guidelines, which were drafted in 2004. However, since 2007, one unified set of BOGs exists. The United Nations, Association of International NGOs in Nepal and Australian Government Overseas Aid Program (AusAID) became signatories in 2009, bringing the total number of signatories to 13.

Although the armed conflict has now been concluded, the BOGs remain as relevant as ever. The context in which the BOGs signatories are working is becoming increasingly complex. It is important to remember that the BOGs express principles that are internationally accepted best practices that should be respected in war, peace or periods of transition.

General Application

The following are some general points to keep in mind about the application and relevance of the BOGs to us as signatories, and to our staff and implementing partners, as well as to the Government of Nepal, non-state actors and communities.

- **The BOGs impose responsibilities:** The BOGs were primarily written to express the principles by which we, the BOGs signatories (the donors, United Nations agencies and AIN), and our implementing partners agree to work. They make us responsible for operating according to the principles contained in the BOGs – in particular, the four fundamental principles of transparency, impartiality, inclusiveness and accountability. They also make us accountable to our donors, beneficiaries and stakeholders.
- **Non-adherence increases risk and reduces operational space for development:** The BOGs are an important practical tool for reducing risk to staff and implementing partners and protecting operational space for development. The converse is also true: Not adhering to the BOGs can increase risk and reduce operational space for development.
- **The BOGs create an environment conducive to development:** The BOGs clearly set out the environment in which we and our implementing partners can continue to work, i.e., in safety, without paying donations or taxes, without others manipulating development, with unhindered access and so forth. They exist to explain why we are here and what we are trying to achieve.
- **Local implementing partners must be made aware of the BOGs:** While we cannot be held responsible for all of our implementing partners' actions, the commitment of the BOGs signatories to being accountable to both donors and beneficiaries means that we agree to do our best to ensure that our implementing partners work according to the BOGs. Therefore, we must ensure that our local implementing partners are aware of the BOGs and fully understand them.
- **Need for an integrated conflict sensitive approach:** The BOGs should not exist in isolation, but form part of an integrated conflict sensitive approach to development that implements the BOGs principles through programme design and standards for staff behaviour. Many of the principles expressed in the BOGs are similar to those embodied in 'Do No Harm' approaches to development. With an integrated conflict sensitive approach, the effectiveness of the BOGs is enhanced.
- **The BOGs support the Government of Nepal:** The BOGs signatories respect the concerns of the Government of Nepal with regards to the need to coordinate development work. We are in Nepal to support the people of Nepal, which means supporting the work of the Government of Nepal. The BOGs are not an attempt to sideline the Government of Nepal, or to show the Government disrespect; they are designed to remind development organisations that our aim is to improve the lives of the people of Nepal. The BOGs signatories work in coordination with the Government of Nepal and fully respect its regulations and work.
- **Monitoring performance:** The BOGs signatories expect and encourage the Government of Nepal, non-state actors and communities to monitor our performance on the basis of the BOGs. If we and our implementing partners do not work according to the BOGs, we expect other stakeholders (e.g., the Government of Nepal, non-state actors and communities) to inform us and we will take appropriate action. If there are complaints about staff or development programmes, we agree to listen and take action to ensure that we, our staff and our implementing partners operate according to the principles contained in the BOGs. The BOGs signatories are committed to responding to valid concerns and improving our performance.

- **Accepting criticism:** The BOGs signatories acknowledge that we, our staff and our implementing partners may not always fully live up to the principles contained in the BOGs. However, we commit to doing our utmost to ensure that we and our implementing partners operate according to the BOGs. The BOGs signatories must be ready to engage with all stakeholders/actors and accept valid criticism, as long as such criticism is made in an appropriate way and without threats or violence.
- **Exception in case of force or intimidation:** The only exception to this is if any individual or group uses force or intimidation against our staff or the staff of our implementing partners, in which case we will protest robustly to those concerned and reserve the right to unilaterally suspend activities and programmes until assured that staff are safe and can work according to the BOGs. We will not tolerate threats or actual harm to staff under any circumstances. The effectiveness of BOGs signatories and our staff will be improved through dialogue, not through force or intimidation by an external actor.
- **Commitment to take action if BOGs not adhered to:** The BOGs signatories must be ready to suspend work or re-allocate resources if the BOGs are not being respected by external actors or by our own implementing partners.

The BOGs signatories ask all stakeholders to commit to the BOGs and to state publicly and unequivocally that they will enable us to work in a safe environment and according to the BOGs.

Challenges to Operational Space for Development

This section looks at some of the challenges to operational space for development that the BOGs protect against. It is often assumed that challenges to operational space come solely from external actors, but our own behaviour and that of our implementing partners can also pose a challenge to operational space. When we do not live up to our own principles it can cause misunderstanding and frustration among beneficiaries and stakeholders, making development work more difficult and less sustainable, and increasing the risk to our staff. Some typical challenges to operational space from external actors include:

- Denial or restriction of access by BOGs signatories to project areas, target beneficiaries, or humanitarian and development resources (e.g., by chakka jam/bandh, or the picketing or padlocking of premises).
- Pressure for financial contributions from office resources or the personal resources of staff.
- Interference in the process of selecting target beneficiaries or the prioritisation of sites for service delivery.
- Requests to recruit members of certain groups based on political considerations, ethnicity, caste, gender or any other identifying characteristic.
- Attempts by various actors to pressure, manipulate or influence the allocation of development resources, including through employment, the selection of project sites, allocation of budgets and so forth.
- Statements by various emerging groups that BOGs signatories must seek their permission to implement programmes, or the imposition of programme restrictions and demands for 'official' registration.
- Any threats to the life or wellbeing of the staff of BOGs signatories.

Part 2: Fundamental Principles

This section explains the fundamental principles that form the basis of the BOGs: accountability, transparency, impartiality and inclusiveness¹.

Accountability

- The BOGs oblige us to be accountable to our stakeholders by setting out the standards of work and behaviour that we expect from ourselves and that stakeholders are entitled to expect from us. Being accountable means that we will explore whether we have met the standards expected of us and we are prepared to act on the findings.
- ‘Accountability’ is not only willingness to provide information about our work, it also means willingness to respond to challenges or changes in the environment in which we work, and being prepared to accept and respond to suggestions, criticism and grievances.
- As BOGs signatories, we are as accountable to the donors and people who provide resources as we are to programme beneficiaries.
- Accountability is a chain – those providing the resources must encourage those using them to be equally accountable and to respect the other principles of the BOGs.
- Accountability does not mean passively giving information to those who ask for it – it means actively disseminating information to all relevant actors to prevent conflict, better manage the security of staff and allow beneficiaries to make informed decisions on the assistance provided.
- Accountability is a way to improve the quality of our work and to lower the risk to staff by addressing potential problems before they create threats.

Transparency

- ‘Transparency’ is the provision of honest, clear and relevant information through pro-active communication about our work so that stakeholders, beneficiaries and other actors can understand our intentions, methodologies and values.
- Transparency is a tool to reduce risk by preventing misconceptions, confusion, allegations of partiality and so forth.
- Transparency and the provision of information should not leave the BOGs signatories vulnerable or increase risk. Accordingly, the private lives and salaries of staff are confidential; information like this is only to be shared as per organisational rules and practices.
- The BOGs signatories must decide what information we are happy for our staff to share and what remains confidential. Lack of clarity on issues of confidentiality can create confusion among external actors and increase risk.

¹ Note that these fundamental principles are not actually listed in the BOGs, as they are considered self evident.

Impartiality

Staff impartiality

- The personal beliefs and convictions (political and religious) of the staff of projects funded by BOGs signatories are inviolable. However, staff must ensure that their views and convictions do not adversely affect their official duties, go against their organisation's values or contradict the Basic Operating Guidelines (BOGs).
- For reasons of impartiality, staff of projects funded by BOGs signatories are not allowed to be active members of a political party or to hold or acquire responsibilities for, or be office bearers of, any political party.
- Staff should not actively participate in political rallies or meetings or behave in ways that may lead communities and others to question their impartiality. If pressured to participate in a rally or political meeting, staff should put safety first while keeping a low profile.

Partners' impartiality

- Partners of projects funded by BOGs signatories, particularly NGOs and service providers, must clearly understand that when they agree to work with BOGs signatories they agree to uphold standards of impartiality and the BOGs. These should be included in their contract with the BOG signatory.
- The NGO Federation states that NGO officials cannot simultaneously be 'executive officers' of any political party – that they must choose between their party and the NGO. This would appear to be a reasonable requirement, but the bottom line is that no NGO member should use the function, resources or funding of the NGO for political advantage.
- In the context of the BOGs, 'impartiality' means not discriminating against people on the basis of their caste, ethnicity, gender, religious or political beliefs, or any other consideration. Our work must be guided by need, based on poverty and exclusion, not by any other consideration.
- Compromising on impartiality can have serious consequences for the security of our staff and our ability to implement our work.
- We must actively work to inform all stakeholders about the principles and objectives of our work. Impartiality is often misunderstood and can be negatively perceived by those who feel that they too have a right to benefit from our work, which can be a source of conflict
- Impartiality and neutrality are not the same. 'Neutrality' means not taking sides in any conflict or in controversies of a political, racial, religious or ideological nature. The BOGs signatories are not neutral because in any conflict or dispute our position is to help the needy (i.e., on the basis of poverty, exclusion or other relevant criteria).
- We promote an equitable and socially just society, not any particular group or party.

Inclusiveness

- ‘Inclusiveness’ primarily means not excluding anyone. It means giving all Nepali people equal access, based on need, to the opportunities that we offer, whatever community or group they are from.
- We seek to be inclusive in all aspects of our work – in the targeting and implementation of our work, in the hiring of staff and in the sharing of information about our work.
- However, inclusiveness is often misunderstood to mean that we are favouring certain groups, and thereby excluding others. This is not the case; the BOGs signatories support an equal society and our inclusion policies are intended to tackle exclusion, not create it. We must work, in the spirit of accountability, transparency and impartiality, as well as inclusion, to explain our inclusion policies to all stakeholders, not simply those who benefit directly from our work.
- Accordingly, as BOGs signatories, we should ensure that our inclusion policies do not create or increase tensions between different communities and that our policies are clear and well explained to all relevant parties.
- Nepal is characterised by diversity, and there can be no harmony except through inclusion. Inclusion is one of the most important elements in building any kind of understanding within such a diverse society (consisting of people from different communities, ethnic groups and regions, and with different languages, values and religions). One of the root causes of the problems in Nepal is exclusion; consequently, inclusion is vital for peace and progress.

Part 3: The Guidelines Explained

Introduction

The Basic Operating Guidelines were drafted to respond to specific issues concerning operational space for development. They were drafted by field staff (both Nepali and expatriates/foreign nationals) with significant experience in Nepal and reflect the real challenges facing development and humanitarian actors. The BOGs are not simply foreign ideas being applied in Nepal; they are the outcome of years of experience working in Nepal and, while the ideas expressed are universal, the form of the BOGs is specifically adapted to Nepal.

Each point in the guidelines is there to explain how the BOGs signatories should respond to questions and challenges by making it clear to both the BOGs signatories and external actors what our position is on these questions/issues. The BOGs is not a policy document, it is a statement of principles relating to everyday challenges and provides a basis for our policies and those of our implementing partners. This section sets out each point in the guidelines followed by an explanation:

Point 1

We are in Nepal to contribute to improvements in the quality of life of the people of Nepal. Our assistance focuses on reducing poverty, meeting basic needs and enabling communities to become self-sufficient.

- Point 1 explains why international development and humanitarian assistance organisations are in Nepal. It makes it clear that the BOGs signatories have no other agenda for working in Nepal than to contribute to improving the lives of the Nepali people in accordance with project agreements signed with the Government of Nepal.
- We are not here to make Nepal or Nepali people dependent on us or impose our own agenda – we are here to support Nepal in becoming self-reliant. Development cooperation is not a form of political domination, nor is it intended to constitute interference in Nepal’s internal affairs.
- Improving the lives of the Nepali people means that the BOGs signatories also commit to cooperating with each other and coordinating their work with Nepal’s development priorities, not forgetting that the BOGs signatories are in Nepal to support the Government of Nepal in its efforts to improve the lives of the Nepali people.

Point 2

We work through the freely expressed wishes of local communities, and we respect the dignity of people, their culture, religion and customs.

- The BOGs signatories work through the participation of communities and community based organisations.
- This means that we do not work against the wishes of the community, impose our own structures or create conflict.
- We respect and coordinate our work with national and local government.
- The BOGs signatories embrace the concept of ‘Do No Harm’ in our work; we try to mitigate potential conflict and are accountable for our actions.

- Our field staff should always try to work through communities and ask them to mediate for the BOGs signatories whenever necessary.
- The word 'community' does not simply refer to a geographical unit. The BOGs signatories must be aware of the concerns and traditional structures of ethnic groups in the areas in which we work, taking care not to disrupt them and to work as closely with them as possible.
- International Labour Organization (ILO) Convention 169 and other national and international instruments on indigenous issues are becoming increasingly important in the context of Nepal's operational space. We must ensure that our staff and implementing partners are aware of such instruments, their implications for policy and implementation, and the need for consultation with indigenous peoples in the areas in which we work. Failure to do so can cause frustration among groups with legitimate issues and ultimately increases the risk to staff.

Point 3

We provide assistance to the poor and marginalized people of Nepal, regardless of where they live and who they are. Priorities for assistance are based on need alone, and not on any political, ethnic or religious agenda.

- As BOGs signatories, we must be impartial, but impartiality is not the same as neutrality (see Part 2).
- We provide assistance to people because they are poor or marginalised.
- We must not allow any political party or group to manipulate development priorities, either at the central or district level. Development priorities must be based on the needs and demands of the target community or beneficiaries and according to project agreements.
- We must not allow the perception to exist that we are favouring one community/group over another on the basis of anything other than poverty and exclusion. If the BOGs signatories are working exclusively with one community/group in a given area, we must make it clear to all stakeholders why we are doing this.
- The BOGs signatories are pro-inclusion and not anti anyone or any community/group.
- The BOGs signatories promote an equal access society and recognise the discrimination that marks the society in which we work. We try to counter criticism with inclusive policies and by working to ensure that our work does not cause conflict.

Point 4

We ensure that our assistance is transparent and we involve poor people and their communities in the planning, management and implementation of programmes. We are accountable to those whom we seek to assist and to those providing the resources.

- The BOGs signatories must be transparent to all stakeholders and accountable to the communities that we work with.
- We will follow the freely expressed demands of the Village Development Committees (VDCs), user groups and communities we work with to the best of our ability. We must clearly explain how and why we intend to work, and ensure that communities can monitor all activities and budgets. We must actively provide accurate, honest answers to all reasonable questions.

- We must ensure that we engage all potential actors in dialogue to make sure that they have the chance to express their point of view. This reduces the likelihood of conflict and increases the security of staff and effectiveness of our support.
- Communication with communities in which we and our implementing partners work must be a continuous and active process – communication should not happen only when there is a problem.
- We must also be accountable to our donors and taxpayers. It must be clear to all stakeholders that we will not keep resources tied up in districts, projects or programmes where we are not able to work effectively. Our patience with inefficiency and interference is limited and we have zero tolerance for corruption.

Point 5

We seek to ensure that our assistance tackles discrimination and social exclusion, most notably based on gender, ethnicity, caste and religion.

- The BOGs signatories favour and support an inclusive and democratic society, but we leave it up to Nepali citizens to decide how to achieve this. However, we will actively promote anti discrimination and social inclusion.
- We strive to make people aware of the negative effects of exclusion and, while not forcing change against the wishes of a community, the BOGs signatories support the needy.
- We take great care not to create conflict in the communities in which we work – the BOGs signatories and our implementing partners must understand the context in which we are working and any potential conflicts that might arise from our work, so that we can address and mitigate such conflict.
- We work in a conflict sensitive way and keep all stakeholders involved in dialogue about programme activities.

Point 6

We recruit staff on the basis of suitability and qualification for the job, and not on the basis of political or any other considerations.

- The BOGs signatories do not allow anybody, including political parties or groups, to place their appointees on our staff or influence the recruitment process.
- We must consider the definition of ‘suitability’ in relation to the selection of staff and recognise that a programme’s needs – including for staff with particular language skills or of a particular ethnicity, caste or gender – play a part in a candidate’s suitability.
- The BOGs signatories and our implementing partners cannot employ anyone with active political connections or affiliations. Political affiliations compromise impartiality. If other groups perceive that there is political affiliation it can increase risk to staff and create operational and development space issues.

Point 7

We do not accept our staff and development partners being subjected to violence, abduction, harassment or intimidation, or being threatened in any manner.

- Our staff and implementing partners work under enormous pressure in the field. The BOGs signatories accept that this pressure exists and will train and support our staff to work effectively in this environment.
- We must create an environment within our organisations in which our staff are comfortable sharing information about operational space for development issues, and we commit ourselves to supporting our staff when they are under pressure.
- We must be aware that, while the BOGs can protect an organisation from demands for donations, this can transfer pressure onto individual staff members.
- We will not accept intimidation of, or actual harm to, any of our staff or the staff of our implementing partners. If necessary, the BOGs signatories reserve the right to stop activities without prior discussion until convinced that our staff and implementing partners are safe and can work according to the BOGs.
- The Government of Nepal, non-state actors and the communities that we work with can monitor our staff's behaviour and effectiveness on the basis of the BOGs, and, if they have complaints, they can inform the concerned BOGs signatory (in the district, region or in Kathmandu). The BOGs signatories should create mechanisms to facilitate this process and ensure that all stakeholders are aware of these mechanisms.
- We must have clear policies, understood by all staff members, detailing the support that we can give our staff collectively and individually when they are facing operational space issues. It is not fair or reasonable to expect individual staff to face these issues alone.
- We must explain to all staff members the long-term implications for the project and for staff job security if a project is suspended (e.g., redeployment).
- We must ensure that all staff members are aware of their responsibility to share information on threats to operational space for development.

Point 8

We do not work where staff are forced to compromise core values or principles.

- Point 8 is a 'catch-all' guideline; if our staff are pressured to do things that we consider unethical or contrary to the BOGs (e.g., engage in corrupt practices or provide information or resources to others), this is considered unacceptable and may lead to the suspension of activities or of the project altogether.
- It is often difficult for project staff to resist political pressure at the district or local level if they are not clear on the values and mandates of their organisation. The BOGs signatories must clarify these values and our staff must understand what these values are so that they can adhere to them.

Point 9

We do not accept our assistance being used for any military, political or sectarian purposes.

- Our staff would be at serious risk if they allowed the resources of BOGs signatories to be used for political or military purposes, and we do not accept such a situation.
- The staff's political beliefs are their own affair, but they must not show any political bias in their work.

- A staff member of a BOGs signatory organisation cannot participate in a political programme or demonstration. If they do so, particularly in the districts, they indirectly give the message that they are allowed to do so as a representative of their organisation – even if it is not so.

Point 10

We do not make contributions to political parties and do not make any forced contributions in cash or kind.

- Our staff would be at serious risk if they provided ‘donations’ or ‘war tax’, or granted any other sort of ‘favour’. Staff should be under strict instructions not to provide any such contributions in cash or kind.
- Providing donations to any group would call into question the impartiality of the BOGs signatories. Furthermore, organisational funds are given by donors to benefit the target population; it is not our money to give.
- The giving of donations may seem like a short-term solution to operational space issues, but it does not solve issues in the long term. Furthermore, it threatens the sustainability of projects and the job security of staff.
- There is no difference between making a donation to a political party, a social cause (like a *Puja Samiti*) or any other group. It is not acceptable to use the BOGs to refuse to make donations to a political party and then to make a donation to a social cause.
- Our programme managers must create relationships with their field officers that will encourage the sharing of information on these kinds of issues. If the headquarters of a BOGs signatory does not know what is happening on the ground, it cannot help. It takes courage on the part of field staff to face these issues and they need our full support.
- The political or religious beliefs of an individual are their own affair and inviolable. However, the giving of donations as an individual to any group during office time, on office premises or while representing the office in any way is unacceptable. Most BOGs signatories strongly discourage staff from giving donations, even as individuals. One member of staff giving donations creates a risk for other members of staff – the BOGs signatories have a responsibility to each other and should not do anything that will create risk for other signatories or field staff.

Point 11

Our equipment, supplies and facilities are not used for purposes other than those stated in our programme objectives. Our vehicles are not used to transport persons or goods that have no direct connection with the development programme. Our vehicles do not carry armed or uniformed personnel.

- We and our implementing partners must insist that nobody takes or uses our programme equipment or resources. Staff must advise their organisation immediately if they are under pressure to do so.
- Staff will not transport any unauthorised people or people not related to the project in office or project vehicles.
- On the question of whether the BOGs signatories should transport seriously ill or wounded people – the BOGs signatories are primarily humanitarian workers and there is a strong argument that the BOGs signatories should behave in a humanitarian way. This means taking anyone (civilian, member of security

forces or anyone else) to the nearest medical facility if they are seriously ill, i.e., in a life-threatening situation. Each BOGs signatory should have a clear policy on this issue and should educate its staff accordingly.

- No weapons are allowed in the vehicles of BOGs signatories or our implementing partners under any circumstances.

Point 12

We do not tolerate the theft, diversion or misuse of development or humanitarian supplies. Unhindered access of such supplies is essential.

- BOGs signatories must insist that the theft or misuse of development resources by anyone is unacceptable.
- We will protest against, and respond robustly to, any restriction of access to development or humanitarian resources. It is vitally important that the BOGs signatories are firm on this issue, understand the issues that our field staff face and be ready to support them.

Point 13

We urge all those concerned to allow full access by development and humanitarian personnel to all people in need of assistance, and to make available, as far as possible, all necessary facilities for their operations, and to promote the safety, security and freedom of movement of such personnel.

- The BOGs signatories urge conflict parties not to create 'no-go areas'.
- We insist that we be allowed to work unhindered and maintain that an environment in which development and humanitarian work can continue is vital.
- Generally, we must not accept protection or escorts from any group. To accept escorts would be to increase the risk to our staff and compromise our impartiality. However, in a crisis, if the situation demands, and when the general public is also under such protection, then for staff safety an escort from the Government may be considered.

Point 14

We expect and encourage all parties concerned to comply strictly with their obligations under international humanitarian law and to respect human rights.

- This guideline was included to emphasise that if parties commit to human rights observance, our implementing partners, beneficiaries and staff will be safer and our work will be more effective.

Annex to the Basic Operating Guidelines:

PROMOTION OF DIVERSITY AND INCLUSION IN DEVELOPMENT ACTIVITIES

The International Community recognises that more is needed to promote the rights and inclusion of indigenous peoples and other disadvantaged groups.

The ILO Convention 169 stresses the *distinctive contributions* of indigenous and tribal peoples to the social harmony of humankind. The convention recognizes consultation, participation, mutual respect and equality as fundamental principles for its implementation and for development in general.

Convention 169 (Article 6(b)) requires governments to establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them.

It also requires governments to adopt special measures to ensure *equal opportunities* and equal treatment in employment for men and women from indigenous and tribal peoples.

The Government has established a task force on the implementation of ILO Convention 169 with the participation of NFDIN and NEFIN, amongst others. This task force has drafted a national action plan. The international community will support the implementation of this plan once it has been approved by the Government of Nepal

The ILO Convention 169 promotes a peaceful approach. Any resort to violent means, threat or coercion would breach its spirit and impair the rights and freedom of others.

Whereas, ILO convention 169 stipulates that "peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights", it then continues to state that "Procedures shall be established, whenever necessary, to resolve conflicts which may arise in the application of this principle".

The implementation of Human Rights protected by and enshrined in international law cannot be claimed by resorting to violence threats and coercion.

In Nepal, the signatories of the Basic Operating Guidelines (BOGs) are committed to strive for diversity within their organizations and development programmes.

Through the Basic Operating Guidelines these development agencies are committed to Inclusion, Accountability, Transparency and Impartiality.

These development agencies recruit staff on the basis of suitability for the job and are committed to promoting workforce diversity. The signatories of the Basic Operating Guidelines do not recruit staff on the basis of political or other influence.

Furthermore, the UN Country Team of Nepal has signed its own Declaration of Joint Principles of Workforce Diversity and is committed to the inclusion of historically excluded groups and regions to professional opportunities within the UN system.

For further information and reference

For more information on the implementation of ILO 169 in Nepal, the authority to be contacted is: Ministry of Local Development, Government of Nepal.

Guidance Note on ILO 169

The ILO Convention 169 relates to the relationship between the State and its indigenous population. Nepal ratified the Convention on 22 August 2007.

While staff of BOGs signatories are not expected to be experts about ILO 169, staff in the field may find themselves questioned/challenged by different stakeholders and actors on their personal, their project's or their donor's position towards the provisions of ILO 169. In 2009, the BOGs signatories, therefore, developed a one-page annex on ILO 169. This is not a technical document and does not address every aspect of ILO 169; rather, it is a response of the signatories to the principles of ILO 169.

Staff should make it clear that they are not claiming to be experts on ILO 169 and that the above-mentioned annex represents the position of the BOGs Group.

ILO 169 is international legislation that the Government of Nepal has signed and ratified. The responsibility for promoting and implementing ILO 169 lies with the Government of Nepal. The international community will offer support to the Government in its implementation, as offered in other areas, being respectful of the laws of Nepal.

The Government of Nepal, through an ordinance in 1997, formed the National Foundation for Development of Indigenous Nationalities (NFDIN), which uses the words 'indigenous' and 'nationalities' synonymously. These terms were not introduced by the BOGs signatories. We are aware that the use of these terms in this way is being contested and discussions are taking place on possibly differentiating between these terms.

Part 4: Frequently Asked Questions

This section aims to answer some of the most common questions asked by the staff of BOGs signatories during BOGs orientations. These questions and answers are generic and have been drawn from experiences across Nepal. However, each project and programme will have its own specific challenges and opportunities. One of the aims of this section, and this manual as a whole, is to encourage BOGs signatories and their partners to actively think about how the fundamental principles of impartiality, transparency, accountability and inclusion apply to their own specific context. Programme and project managers can benefit from considering the challenges that could arise in their own context and preparing for them on the basis of the BOGs principles

Question 1: Can I be an active member of a political party and work for a BOGs signatory?

Answer: No

The staff of BOGs signatories and BOGs-funded projects are not allowed to be active members of a political party or to hold or acquire responsibilities or be office bearers of any political party. This is consistent with the rules of the Nepal NGO Federation, which state that: “NGO officials cannot simultaneously be ‘executive officers’ of any political party – they have to choose between either their party or their NGO”.

In this context, ‘active’ should be understood to mean any activity that could compromise the impartiality of the individual organisation. This would appear to be a reasonable distinction, but the bottom line is that no member of an NGO should use the function, resources or funding of the NGO for political advantage.

Question 2: Even if I am not a member of a political party, can I take part in political programmes?

Answer: No, because in the districts, the visibility of staff members is high and seemingly harmless participation can be misinterpreted as party affiliation.

As a citizen, the political beliefs of a staff member are inviolable. However, as staff of a BOGs signatory office/project/service provider, staff members are not allowed to take part in any programme or event of a political party, but must appear impartial.

If staff are forced to attend a political programme or event under duress, then they should remain inactive, maintain as low a profile as possible and not draw attention to themselves.

Question 3: Can I make donations to parties, groups, social causes and so forth?

Answer: No

A number of BOGs signatories strongly discourage staff from making voluntary donations to political parties as it compromises impartiality, invites challenges from other groups and increases risk to staff. Furthermore, it can cause confusion, as it is very difficult for people to distinguish between whether someone is acting as an individual or as a representative of their organisation.

There is no difference between making a donation to a political party, a social cause or an individual. Donations of this kind have serious implications for the impartiality of BOGs signatories and our implementing partners.

If staff members are being pressured to make donations, the BOGs signatories must create a working environment in which staff feel that they can share these issues and seek help from their colleagues and organisation.

Question 4: Are the implementing partners of BOGs signatories also liable to respect and adhere to BOGs?

Answer: We expect our implementing partners to comply with the BOGs.

The implementing partners of BOGs signatories use our resources and the resources provided by donors. Point 11 states clearly that: “Our equipment, supplies and facilities are not used for purposes other than those stated in our programme objectives”. This means that the BOGs signatories expect our implementing partners to comply with the BOGs. If the BOGs signatories claim to be accountable, then we must insist that our implementing partners work to the same standards and we must monitor this.

However, our implementing partners are not direct signatories to BOGs, which can cause confusion. Therefore, it is important that we make it clear to our implementing partners that when agreeing to work with BOGs signatories they are expected to adhere to our standards of impartiality and the BOGs. Accordingly, many BOGs signatories include BOGs adherence clauses in funding and partnership agreements. We also have a responsibility to inform and educate our implementing partners about the BOGs.

Question 5: What other Nepali documents support or re-enforce the BOGs?

Answer: The Comprehensive Peace Agreement and the Commonly Agreed Code of Conduct for Political Parties

Sections of both the Comprehensive Peace Agreement and the Commonly Agreed Code of Conduct for Political Parties support some of the Basic Operating Guidelines. In particular, both documents refer to fundraising and donations.

For Example, the Code of Conduct for Political Parties says:

15. Donation or financial assistance in cash, kind or in the form of services will not be collected or mobilised against one’s will.

The Code of Conduct was signed by the Government of Nepal and the Unified Communist Party of Nepal (Maoist) on 25 May 2006.

The Comprehensive Peace Agreement says:

5.2.1 There will not be cash or kind collection or tax collection against anyone’s will or Nepal’s existing laws.

The Comprehensive Peace Agreement was signed by the Government of Nepal, led by Girija Koirala, and the Unified Communist Party of Nepal (Maoists), led by Pushpa Kamal Dahal, on 21 November 2006.

Part 5: Organisational Structure

Members of the BOGs Group

The Basic Operating Guidelines Group has 13 members, who have all publicly committed to respecting the BOGs in their work and who encourage other actors to do so.

The Group includes many of the major donor organisations working in Nepal, as well the United Nations system as a whole and the Association of International NGOs in Nepal (AIN). The co-chairmen of the BOGs Group are currently the United Nations Resident Coordinator and the Swiss Ambassador to Nepal.

BOGs Secretariat

Since October 2009, there has also been a fulltime BOGs Secretariat based in Kathmandu. The duties of the Secretariat include:

- 1) Central and field-level advocacy on operational space and BOGs issues through direct contact with relevant actors and through the media.
- 2) Regular analysis of emerging trends relating to operational space to facilitate timely and appropriate responses to new issues.
- 3) The dissemination of the BOGs on a national, regional and district level.
- 4) The provision of training for BOGs signatories and implementing partners on BOGs dissemination and how to implement the BOGs in their own work.

The BOGs Secretariat can be contacted by email at bogsofficer@gmail.com.

Field Coordination Offices

The BOGs Secretariat works on operational space issues, mainly in Kathmandu. However, the United Nations Field Coordination Offices (FCO), which have regional offices in Daddeldhura, Nepalgunj, Bharatpur, Kathmandu and Biratnagar, are also available to provide assistance to the signatories to the BOGs to enable them to better understand the everyday challenges faced by implementing actors on the ground. They do so by disseminating the BOGs, monitoring and reporting (including mapping) incidents relating to operational space, and mediating as and when appropriate. The head office of the United Nations Field Coordination Offices is located in UN House and can be contacted on 977-1-5523200. For more information visit the United Nations Nepal Information Platform at <http://un.org.np>.