

Alternative Report of the Indigenous Peoples of Nepal

to the State Report Submitted by the Government of Nepal to
the Committee on the Elimination of Racial Discrimination

Submitted to

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PART I

INTRODUCTION, SCOPE AND METHODOLOGY

Introduction

1. Nepal is a "multiethnic, multi-lingual, multi-religious, multi-cultural and diverse regional characteristics"¹ country. The country is the homeland to 125 caste/ethnic groups, 123 languages and 10 religious groups.² The total population of Nepal is 26,494,504.³ Among them, indigenous peoples (IPs) comprise 35.8 percent of the total population. Nepal has legally recognized 59 indigenous nationalities, referred to as *Adivasi Janajati*. The country has entered into a new State structure with promulgation of new Constitution in September 2015. IPs of Nepal were forcibly assimilated in third category of Hindu Caste hierarchical system, that was legally institutionalized with the codification of the Civil Code (Muluki Ain) 1854. Further the Act divided IPs into slaveable and enslaveable. The Civil Court is still in practice with some changes. The principles and the notion of the Civil Code reflected in several existing legal provisions.

Scope of the Report

This report has five scopes:

2. First, the State Party Report of the Government of Nepal (GoN) contains information until the date of submission (25 January 2017) and It's been already more than one year period since the date of submission. After submission of the State report numbers of political development has taken place. During this period, *Gaun Palika, Nagarpalika Tatha Bises Samrakchit wa Swayeta Chetrako Sankya ra Simana Nirdharan Ayog* (The Commission for the determination of the number and boundaries of Village Bodies, Municipalities and Special, Protected or Autonomous Regions (Hereinafter the Local Bodies Restructuring Commission (LBRC) was formed with mandates stipulated under article 295(3) of the Constitution of Nepal, 2015.
3. Second, there are numbers of new laws promulgated affecting IPs and their rights. Three elections respectively: election of legislative parliament; state legislative and local level were held during this period.
4. Third, this Alternative Report provides supplementary information to the State report on the basis of the facts and data derives from primary and secondary sources and intended to contribute to the Committee on the Elimination of Racial Discrimination (CERD) for identifying gaps and to provide suggestions for the concluding recommendations in terms of eliminating racial discrimination against IPs in Nepal.

Methodology

5. This Alternative Report has been prepared jointly with the consultation of the IPOs and IPs experts and leaders networks in Nepal (*See Annex I for the list of organizations*).
6. This report provides status of implementation of selected provisions of the CERD related to IPs and also responses to the report of the GoN. Having objectives of recommending the government for effective implementation of the CERD vis-à-vis elimination of the racial discrimination against IPs, recommendations have been proposed for the consideration of the CERD to be accommodated in the concluding observation of the committee.

¹ Preamble, the Constitution of Nepal, 2015

² CBS (2012) *National Population and Housing Census 2011: National Report*, Volume 01, Kathmandu: National Bureau of Statistics, Government of Nepal.

³ CBS 2011

PART II

RACIAL, POLITICAL DISCRIMINATION AND EXCLUSION AGAINST INDIGENOUS PEOPLES

Systematic Exclusion of Indigenous Peoples in the Constitution Writing Process (Violation of Art. 1, 2, 3 and 15.c of the CERD and Non-compliance of Early Warning Recommendations)

Response to Government Report (Section II.A.2.2.b)

7. In 2007, Nepal was declared as a Federal Republic State by the reinstated Legislative Parliament to address the demand of Nepali people, including IPs, Madhesi, Dalits, Muslims who are highly marginalized, excluded and historically discriminated against. Among others, the Interim Constitution, 2007 was promulgated to institutionalize federalism, secularism, inclusion, proportional representation (Art. 4), self-governance, autonomy to IPs (Art. 138.1.A) *vis-à-vis* human rights and fundamental freedoms. For the first time, the Interim Constitution proclaimed to end all forms of racial discrimination with restructuring of the State and writing a new constitution by the people through the elected Constituent Assembly (CA). Various Agreements were concluded between the GoN and IPs in the course of Constitution writing process. Through these agreements, the GoN has agreed to ensure right to self-determination, autonomy and self-governance,⁴ recognition rights to lands, territories and natural resources,⁵ and meaningful participation of IPs in Constitution writing process.⁶ Importantly, there was a provision to nominate at least 13 IPs representatives in the CA by the Council of Ministers. It was to ensure IPs collective representation, from those who were not represented through First-Past-The-Post (FPTP) and Proportional Representation (PR) electoral system (Art.63.3.c).
8. Further, there was no direct and meaningful representation of IPs in the Constitution making process. IPs strongly demanded for meaningful representation through freely chosen in accordance with own procedures as prescribed by the article 18 and 19 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Article 6 and 7 of the ILO Convention No. 169 and the article 5(C) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The Special Rapporteur on the Rights of Indigenous Peoples (SRIP) recommended to the GoN for ensuring direct representation of IPs and to formulate separate mechanism of IPs to hold FPIC within the CA (A/HRC/12/34/Add.3, 20 July 2009, Para 86&87). In response to the Urgent Appeal filed by IPs, the respected CERD issued "Early Warning Letters"⁷ and urged the government to ensure IPs direct and free participation. The GoN and CA failed to comply with these recommendations and Early Warnings as well as said provisions of international treaties that Nepal is party to.
9. In 2012, the first CA was dissolved without promulgating Constitution and subsequently, the second CA was formed in 2013. The Supreme Court issued a Directive Order against

⁴ Agreement between Federal Limbuwan Party and Government of Nepal (2008) Kathmandu: Ministry of Peace and Reconstruction.

⁵ Ibid.

⁶ Ibid.

⁷ Early Warning Letter were Issued by the CERD on 28 September 2009 (Ref: TS/JF), 31 August 2012 (Ref: CERD/EWUAP) and 13 March 2009 (Ref: TS/JF)

the GoN in 2012⁸ in line with the SRIP and CERD to ensure meaningful participation of IPs. In contrast, there was a strict prohibition to form IPs-Caucus (an informal platform in the CA to discuss IPs agenda) and refrain CA members to bring IPs concerns in their deliberation. In addition, the Supreme Court of Nepal issued a writ of prohibition, Mandamus and Certiorari against the GoN.⁹ A 2-day public consultation on the draft of Constitution was held in limited places without prior information to concerned peoples and CA members. Even CA members were not allowed for deliberation in the CA. IPs' amendment proposals were forced to withdraw by the political parties imposing whips against the Constitutional and legal provisions relating to the CA. Finally, the Constitution was adopted by deploying military in various indigenous, Tharu and Madhesi areas to suppress their movements and demands to incorporate their rights, issues and concerns in the constitution. Fifty-five people were killed brutally using excessive force¹⁰, many are still facing false charges of breaching law and order.¹¹ Twenty-six Tharus indigenous peoples (leader and ordinary people) are in judicial custody (*See annex II for the list of detainees*) and 300 peoples are facing criminal charges (homicide and attempt to murder). Without any substantial evidences, these people are languishing in jails for more than three years and the Kailali District Court is denying holding final hearing ignoring the orders of the Supreme Court issued in 2017. Many Tharus men and Barghars (Headmen) have been displaced from their home due to the fear of attacks and arrests.¹² The GoN filed cases of treason against the leaders of *Pallo Kirant Limbuwan Rastriya Manch* (PKLRM) when they had demanded to respect the treaty of 1774 between the State and *Limbuwan*. The CERD's urgent action and early warning letters resulted in dismissal of the case against them.

10. The Constitution accepts principle of inclusion and proportional representation in the state structure as a fundamental right of different sections of society including, IPs. In practice, the proportional representation is not a free, meaningful and accountable representation of IPs *albeit* it is representation of respective political parties rather than the group that they belong to. Indigenous Parliamentarian works in strictly in their party line.
11. The dominant groups *Khas Arya* that comprises 28 percent of total population enjoy overwhelming representation in legislative parliament, executive, judiciary as well as state and local governments. IPs that comprises 35.8 percent of total population is low representation in aforementioned structure and no different to other marginalized groups such as Madhesi, Dalits and Muslims.

Problems and Challenges

12. The present constitution, which is regressive and racist in compare to the Interim Constitution 2007, fails to ensure fundamental rights and freedoms of IPs and retain policy of racial discrimination, exclusion and marginalization. Currently, two political

⁸ LAHURNIP et. al vs Prime Minister et.al Certiorari including Mandamus, Decision No 8990, Nepal Kanoon Patrika, 21 April 2013, p. 491. (065-WO-0475).

⁹ Not the nominate the party leaders who have participated in the elections and ensure the representation of those IPs who have not represented under the FPTP and PR electoral system, Dalit janajati Party Vs. Government of Nepal, Writ No. 070-WO-0476, decision date 12 May 2014.

¹⁰ Country Reports on Human Rights Practices for 2016 United States Department of State • Bureau of Democracy, Human Rights and Labor visit www.state.gov/documents/organization/265756.pdf, visited 18-03-23

¹¹ Nepal: Torture and Coerced Confessions, Human Rights Violations of Indigenous Tharus, After the August 2015 Police Killings in Kailali Amnesty International, P. 16

¹² Human Rights Watch Report, Printed in United State America, Protest and Police Crack Down Tarai Region in Nepal, 2015, P. 21

parties *Sanghiya Samajbadi Forum* and *Rastriya Janata Party Nepal* are forwarding agenda of amendment of the Constitution. IPs, through their organizations, are also demanding for total amendment and/or re-writing of the Constitution. However, there is no free representation of IPs, nor any mechanism (committee) in place for consultation and obtaining consent in the Parliament in relation to any amendment proposal that concerned and affect to them. On the top of it, there is very limited chance that agenda relating to IPs would be introduced.

Suggested Recommendation for concluding recommendations

13. Ensure IPs free representation by amending Constitution and enacting/amending laws in federal, provincial and local levels respecting to Art. 5(c) of the CERD, Art. 18; Art.19 of UNDRIP and Art. 6 and 7 of the ILO Convention, Early Warning letters of CERD; Recommendation of SRIP and the Directive Order of the Supreme Court of Nepal.
14. Establish a specific Mechanism or Committee in the Legislative Parliament (Local, Provincial and Federal) through IPs Representatives freely chosen in accordance with their process to give space for free voice in relation to amend or reform the Constitution.

Constitution Promoting Racism and vice-versa (Violation of Art. 1, 2, 4 et.al of CERD)

Response to the government report (Part II, Section I, Para 76)

15. The existing Constitution States Nepal as "multi-ethnic, multi-lingual, multi-religious, multi-cultural characteristics with common aspirations of people living in diverse geographical regions, and being committed to and united by a bond of allegiance to national independence, territorial integrity, national interest and prosperity of Nepal, all the Nepali people collectively constitute the nation" (Art. 3). In contrast, the Constitution has a provision of interpretation of the Secular State¹³ that reverses the secularism and establishes nation as a Hindu State in new context. An explanatory provision defines secularism as protection of *Sanatan* ("Hindu")¹⁴ religion and Culture. Indirectly, the constitution institutionalizes the Hindu State *vis-à-vis* graded hierarchical caste system, which is the root cause of IPs' problems that includes subjugation, exclusion, marginalization, discrimination and dispossession from lands, territories and natural resources.
16. The existing Constitution has given special undue recognition to Chetri, Bahun, Thakuri, Sanyasi, Dasnami (CBTDS) as *Khas Arya* (*Aray race*) for the first time in the constitutional history of Nepal. On the contrary, there is no such definition of IPs, Madhesi, Dalits and Muslims, who together comprise 70 percent of the total population of Nepal. Bahun Chhetris, who are historically dominant and overwhelmingly represented at all level of decision making, including parliament, bureaucracy, constitutional bodies and political appointments but they have allocated reservation quotas along with the marginalised caste, Indigenous and regional groups. The electoral method is designed in such a way that the Bahun Chhetris are overwhelmingly elected in the FPTP electoral system. Hence, they don't need any reservation seats or quota, but 31 percent of seats in proportional representation is reserved for *Khas Arya* that not only retains their dominant position, but also further marginalizes other communities including IPs. There is a

¹³ Interpretational provision of Article 4 (1) of the Constitution of Nepal defines "Secularism" is protection of "Sanatan religion" and culture inter alia cultural freedom.

¹⁴ Nepali *Brihad Sabdakosh* of Nepal Academy, 2016 P.1225

conditional terms "economically backward"¹⁵ for proportional representation to the *Khas Arya*,¹⁶ however this condition has never been taken into account in the course of due implementation.

17. The constitution declares Hindu cultural symbols as national emblems, such as cow (Hindu sacred animal), flag (Hindu symbol), Crimson (color of victory in Hindu Culture) and *Sanskrit* language in court of arm. The non-Hindus including IPs are compelled to follow those Hindu symbols that have adverse impacts to them legally.

Problems and Challenges

18. Racial supremacy, forced assimilation and hegemony will perpetuate against IPs. The Hindu caste hierarchical system is institutionalized and protected by State, sabotaging rights and dignified life of IPs.
19. Aggression in indigenous sacred sites, cultural heritages and identity would continue. There are several examples that the sacred sites of IPs are Hinduized.
20. Ignorance of the identity based federalism as demanded by the IPs movement in Nepal from the very beginning.

Suggested Recommendation for the Concluding Recommendations

21. Repeal the entire racist provisions of the Constitution (Explanatory provision of Secularism, Art 4.1, Art.8, Art.7, Term Khas Arya from Art 42.1, 84.1.2 and 176.6)
22. Amend the Constitution to ensure *de-jure* and *de-facto* rights and equality as well as respect identity and dignity of IPs.
23. Amend the constitution for the full protection indigenous identity, cultural sites, heritages, sacred sites and place related to identity.
24. Ensure secularism and multiculturalism.
25. Restructure the State respecting IPs' ancestral lands and territories.

Violation of Right to Self-determination, Autonomy and Self-rule

(Violation of Article 1 and 4 of CERD and General Recommendation XXI of CERD)

No information contains relating to aforementioned topic in the Government Report

26. The agreement concluded in 2008 between Federal *Limbuwan* Party and GoN agreed to form Autonomous *Limbuwan* with right to self-determination *vis-à-vis* self governance to institutionalize in the constitution¹⁷. With the fifth amendment, in Art. 138 (1)(a) of the Interim Constitution, 2007 accepted and incorporated IPs and others' aspirations for autonomy and self-governance and expressed to incorporate in new constitution to institutionalize progressive state restructure.
27. In contrast, there is no provision to guarantee autonomy and self-governance with right to self-determination in the Constitution of Nepal, 2015. Only Special, Protected or Autonomous Region can be set by the Federal law for social, cultural protection or economic development (Art.56 (5) without any political power.
28. In accordance with Art. 295(3) of the Constitution, 2015 a Commission to restructure local bodies (Herein after Local Bodies Commission) was commissioned with clear mandate of determination of numbers and boundaries of Village bodies, Municipalities and Special, Protected or Autonomous Regions determined numbers of local bodies and

¹⁵ Article 42 of the Constitution of Nepal 2015

¹⁶ Ibid.

¹⁷ Agreement between Federal Limbuwan Party and GoN in 19 March 2008 www.peace.gov.np visited 11 March 2018

their names. The commission formed 753 Village Bodies and Municipalities but not the Special, Protected and Autonomous Regions.

29. The delineation of borders of seven provinces, Local bodies and Municipalities is a clear gerrymandering to crack IPs clusters, settlements and territories so as to turn them into numerical minority and to pack *Khas Arya* to make them dominant. Many IPs objected and submitted memorandums.¹⁸ However, IPs voice was not taken into account. On 27 December 2016, Tajpuriya IPs challenged by filing a Writ Petition in the Supreme Court against the decision of the Local Bodies Commission. The Supreme Court declared the case inadmissible. Again they filed a Public Interest Litigation (PIL) against the Commission. The Registrar of the Supreme Court declared it inadmissible on 21 Jun 2017. An appeal (073-AP-0494) was filed against the decision of the Registrar in the Supreme Court. Single Bench of the Chief Justice issued an order that affirmed the decision of the Registrar was not unlawful. It is not unusual as the Supreme Court close its door for IPs.
30. In a country report (A/HRC/12/34/Add.3), the Special Rapporteur on the Rights and fundamental freedoms of Indigenous Peoples highlighted, "the demand of Indigenous Peoples in Nepal for federalism in general represents a clustering of assertions that effectively, if not expressly, are centered on the right to self-determination and include demands for local autonomy and political participation; rights over territories, lands and resources; and cultural integrity". The Special Rapporteur has further noted, "These are all legitimate demands that should be secured in the country's new constitutional order, whatever ultimately may be the State's overall political-administrative configuration" (Para.61). The SRIP recommended to ensure right to exercise autonomy or self-government in relation to formation of federal structure (Para. 88)

Problems and Challenges

31. IPs are continuously marginalized, excluded and discriminated in the Constitution, laws, policies, plans and programs.
32. IPs cannot enjoy full-fledged human rights and fundamental freedom due to denial of Right to Self-determination, Autonomy and Self-rule have destroyed collective way of life, customary livelihood, food security etc.
33. Lack of reservation policy to ensure equal representation of IPs at the local level elections.

Suggested Recommendation for Concluding Recommendations

34. Ensure autonomy and self-rule of IPs in laws that respects right to self-determination in their ancestral lands and territories in accordance to agreements between Indigenous Peoples and the State.
35. Make the local level structures inclusive based on the population size of IPs.

Forced Identity Deprivation

(Violation of Art 5(d)(iii), (5)(e) And General Recommendation 23rd of CERD Response to the government report (A Normative Framework 2)

36. Indigenous Peoples of Nepal are formally recognized under the Foundation for the Development of Indigenous Nationalities (NFDIN) Act, 2002 and 59 groups are enlisted under the Schedule of the said Act. The Home Ministry issued a notice that enlisted 48

¹⁸ Tajpuriaya Indigenous Peoples and others submitted memorandums to the Commission to respect the cluster of their population

Indigenous Peoples as minority groups in relation to election of local levels. **Byasi Sauka** (an Indigenous Group) filed a PIL against the decision of Home Ministry and the Case is *sub judice* in the Supreme Court. In order to legalize the decision, GoN published a list of Minority in the Gazette dated 22 January 2018 in order to deprive them from indigenous identity and collective rights.

Problems and Challenges

37. Indigenous Peoples' right to live with identity, dignity and collective rights has been challenged.
38. Introduction list of minorities to replace and deprive IPs from their identity.
39. Banning of IPs toponyms-typonyms at local level structures' naming process.

Suggested Recommendation for the Concluding Recommendations

40. Respect Indigenous Peoples' right to self-identification and right to live with collective rights and dignity, by rectifying list of Minority and ensure meaningful representation without compromising their identity as indigenous peoples.
41. Re-establish the indigenous names of the local level State structures rather than introducing Hindu and Sanskrit names for those IPs' lands and territories.

Criminalization of Political Faith and Denial of Political Representation

(Violation of Art 5 c)

Response to Government Report (Part I Background (I)(4), Section III (41)(9)

42. The Article 17(2)(3) of the Constitution imposes restriction on fundamental freedom to form a political party in the name of preventing acts that undermine sovereignty, territorial integrity, nationality and independence of Nepal or jeopardize social and ethnic harmony or organization or representative in a manner to undermine the security of Nepal. The political rights of IPs are directly curtailed by this provision. For example, leaders and members of *Mongol Mulbasi* Force have been in judicial custody in the charge of "Organized Crime"¹⁹ and "Treason"²⁰ just for advocating political rights without any substantial evidences. The Case is *sub judice* in the District Court of Bhaktapur and the Special Court in Kathmandu. It has been almost a year that eleven people are under the judicial custody, according to the Order of the District Court (*See Annex III for names of detainees*).
43. With amendment of the Electoral Act, each political party has to garner three per cent of the total valid votes casted under the PR electoral system and at least one seat under the FPTP electoral system to be recognized as a national party. This new provision systematically eliminates identity-based parties advocating for Indigenous Peoples' rights. Many political parties including Rastriya Janamorchha, Nepal Pariwar Dal, Rastriya Janamukti Party and Dalit Janajati Party boycotted the House meeting protesting against the threshold provision.²¹ As a result, the following identity-based political parties could not secure three percent of votes in recent elections. It should be noted that these parties had their representatives in previous legislative parliament/CA because of no provision of threshold. Most of these Parties were newly formed and some of them had emerged from

¹⁹ GoN vs. Prithivi Narayan Limbu et. al. Case Organized Crime (Case No. 073-CR-0069) Bhaktapur District Court

²⁰ GoN vs. Prithivi Naryan Limbu et. al. Case Organized Crime Case No. 073-CR-0082) Special Court, Kathmandu

²¹ <https://thehimalayantimes.com/nepal/house-likely-pass-threshold-decision-amid-fringe-parties-protests/visited> 11 February 2018

Indigenous Peoples' movements. There is almost no chance of raising IPs voice freely in the Legislative Parliament due to abolition of these political parties. And, there is very limited chance of emergence of identity-based political party to advocate the rights and voice of indigenous peoples in the Legislative Parliament.

Table 1: Identity based parties that lost status of national after the federal level election of 2017

SN	Political Parties	Legislative Parliament/CA (2008)	Legislative Parliament/CA (2013)	Federal Level Elections (2017)
1.	Dalit Janajati Party	National Party	National Party	Lost status of National Party
2.	Khabuwan Party	National Party	National Party	Lost status of National Party
3.	Nepa: Rastriya Party	National Party	National Party	Lost status of National Party
4.	Rastriya Janamukti Party, Nepal	National Party	National Party	Lost status of National Party
5.	Sanghiya Limbuwan Party, Nepal	National Party	National Party	Lost status of National Party
6.	Sanghiya Lokatantrik Rastriya Manch (Tharuhat)	National Party	National Party	Lost status of National Party
7.	Tharuhat Tarai Party	National Party	National Party	Lost status of National Party

Problems and Challenges

44. Innocent political rights cadres and leaders are languishing in the jails under the false charges.
45. Exclusion of Indigenous Peoples in raising voice, agenda setting, law making and decision-making prevented them from exercising their full-fledged political rights and fundamental freedoms.
46. The trends of making racial discriminatory laws will be intensified.
47. There is no possibility of enjoying equal political rights and fundamental freedoms, if the *status quo* should continue.
48. There are problems of implementation of recommendations made by international human rights bodies to the legislative parliament and existing laws relating to the rights of indigenous peoples would not be implemented. For example, the early warning letters of CERD were never complied.

Suggested Recommendation for Concluding Recommendations

49. Immediately repeal the threshold provision of electoral law.
50. Repeal restrictive clauses of proviso Articles 17 (1), (3) and (4) of the Constitution relating to fundamental political freedom.
51. Withdraw the false charges, without further delay, against IPs political leaders and cadres of *Mongol Mulbasi* and innocent Tharu leaders and community members, including two children, allegedly involved in the Tikapur incident. (section 29, Government cases Act, 1992)
52. CERD Committee should follow-up implementation of the recommendations of the international human rights bodies, including CERD.
53. Repeal the Constitutional provisions regarding national symbols that highlights and establish Hindu identity only.

Preferential Treatment to Dominant Groups
(Violation of Art. 4 and 5 of CERD)
Response to the government report (Part II, Section I, Para 112)

54. Constitution and laws retains the essence of Hindu Caste system and the dominant position of *Khas Arya* race that goes against the spirit of inclusive democracy and social justice.
55. The highest positions of three State organs and other major government positions, including President Bidhya Devi Bhandari, Prime Minister Khagda Prasad Sharma Oli, Speaker of the Lower House Krishna Bahadur Mahara, Chair of the Upper House Ganesh Prasad Timilsina, Chief Justice Deepak Raj Joshi Army Chief Rajendra Chetri, IGP Prakash Aryal, NHRC Chair Anupraj Sharma, Commission on the Investigation of Abuse of Authority (CIAA) Chief Nabin Kumar Ghimire, Attorney General Agni Prasad Kharel, are occupied by the *Khas Arya* Caste groups only. The European Union commissioned independent mission to observe the elections of house of representation and provinces recommended scrapping the reservation to *Khas Arya*.²² The State and the major political parties do not accept the recommendation and ask the EU to revise the report. But the IPs and other marginalized communities welcomed recommendations of the EU and asked the government to respect the norms and values of social justice. Similarly, two political parties advocating for the issues and rights of Madhesis and other marginalized communities Federal Socialist Forum and *Rastriya Janata Party* also stood in favor the report of the EU.

Problems and Challenges

56. Bahun hegemony deterred social inclusion and social justice. Hence, Indigenous Peoples are not only deprived from representation but also from getting government services and resources. IPs are facing extreme marginalization, exclusion and direct and indirect discrimination in public and private spheres

Suggested Recommendation for the Concluding Recommendations

57. Ensure *de facto* proportional inclusion of indigenous peoples on the basis of their population size in every structure of the state including public service.
58. Review the impact of the reservation and quotas reserved for the *Khas Arya* in House of Representatives and provincial assemblies and remove the *Khas Arya* from the groups included as beneficiary of the reservation. Ensure that measures of affirmative action apply only to those groups which are the subject of negative discrimination for centuries.

Participation on decision-making
(Violation of Art 5.c, 4 of CERD)
Response to the government report (Part II Section I (84) and (93))

59. In relation to the Indigenous Participation in decision-making, article 51(j) 8 of the Constitution of Nepal states that the Indigenous nationalities participate in decisions concerning that community by making special provisions for opportunities and benefits in order to ensure the right of these nationalities to live with dignity, along with their

²² European Union Election Observation Mission Final Report Nepal, House of Representatives and Provincial Assemblies Election 26 November to 7 December 2017. Recommendation: "Review the impact of the quota system on the ethnic composition of the House of Representatives and provincial assemblies. Remove the *Khas Arya* from the groups included. Ensure that measures of affirmative action apply only to groups which are the subject of negative discrimination."

identity. However, this is an inspirational provision and no legal action can be brought in front any court, in case of noncompliance.

60. The Local Self-governance Act, 1998 had specific provisions for representation of indigenous peoples in local bodies,²³ that have been substituted by newly introduced the Local Government Governance Act (LGGA), 2018, that has no such provision for the representation for Indigenous Peoples in Local Government. This is crystal clear that the newly adopted LGGA is a regressive in term of ensuring representation of Indigenous Peoples in decision-making bodies. The voice of Indigenous Peoples in decision-making will be seriously undermined by this Act in their very own ancestral domain where all state local bodies have been established and functioned. The state decision making bodies are highly exclusionary and dominated by *Khas Arya*.

Problems and Challenges

61. The issues, concerns, problems and agendas of Indigenous Peoples shall not be addressed in decision-making, law and policy making; implementing and monitoring process which remain them in status quo of poverty, discrimination, marginalization and subjugation.

Suggested Recommendation for the Concluding Recommendations

62. Amend the *Sthaniya Nikaya Sarkar Sanchalan Ain, 2074* (Local Government Governance Act (LGGA), 2018) shall be amended to ensure free and meaningful representation of indigenous peoples having provision for proportional representation on the basis of their population.
63. Establish a procedure in laws, policies and programs of Federal, State and Local government to obtain free prior and informed consent in accordance with article 51(j)(8) of the Constitution, article 6 and 7 of the ILO Convention No. 169, article 18 and 19 of the UNDRIP and GR 23 or the CERD.
64. Reform and adopt the National Action Plan (NAP) for implementation of ILO Convention No. 169 prepared by the then Ministry of Local Development (current ministry of Federal Affair and General Administration) in 2008.

Indigenous Commission and Tharu Commission (Violation of Art 5.c, 4 of CERD) Response to the government report (Part II Section I (148))

65. Constitution has provision for two commissions for IPs one is Indigenous Commission and the other is Tharu commission. Both commissions have no quasi-judicial jurisdiction to take action against human rights violation. They are not based on the Paris Principles.

Problems and Challenges

66. Difficulty in monitoring and redressing rights violation of Tharus and IPs.

Suggested Recommendation for the Concluding Recommendations

67. Amend Constitution to make Tharu commission with quasi judicial jurisdiction in par with the National Human Rights Commission *vis-à-vis* in line with Paris Principles.

²³ Section 8(C);76 (C) and 172 (e) of the Local Self-Governance Act, 1998

PART III
ECONOMIC, SOCIAL AND CULTURAL RIGHTS
Lands, Territories and Natural Resources
(Violation of Art. 5.d.e and 5.e.iii and General Recommendation 23rd)
Response to Government Report (Section III Para 47)

68. The lands, territories and natural resources of the IPs of Nepal is under threat due to fragmentations by the State restructuring²⁴ and aggressive development initiatives. The State restructuring was done without the representation and consent of IPs despite their concerns, reservation and dissatisfactions. The GoN did not even stick to the Constitutional provisions regarding formation of "special, protected and autonomous regions"²⁵ which is basically intended to enhance "socio-cultural protection or economic development"²⁶ of the IPs. The 7 province and 753 local level demarcations divided IPs' lands and territories which lead them into the status of minority and sideline them from accessing to decision making process and protection and promotion of their lands and territories. This is apparently non-compliance to the provisions of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention No 169. Nepal is a signatory of both of the international instruments mentioned above. UNDRIP States that the "Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters..."²⁷ The ILO Convention states that "the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized."²⁸ But the State of Nepal does not recognize the rights to lands, territories and natural resources of IPs.
69. About 80 percent marginalized hill IPs have lands of average 0.4166 hectares per household registered in their names, but 29.5 percent marginalized hill IPs, 25 percent hill IPs other than Newar and another 25 percent of Tarai IPs other than Tharu possess lands not yet registered in their names (title to the lands not legitimated). Some 38 percent Tharu and 28 percent Tarai IPs other than Tharu cultivate lands of others.²⁹
70. The "development" project, such as hydropower generation projects, parks & protected areas and other infrastructure development projects, i.e. road expansion, business complexes etc., are another threat to the lands and territories of IPs. Most of such project are constructed and planned to construct in the lands and territories of IPs without free, prior and informed consent and their meaningful participation in the decision making process. This is against the principles of the self-determined development of IPs.
71. The 999 km of roads expansion project in Kathmandu heavily displace the indigenous and other local communities without consultation, consent and compensation. The project displace around 150,000 populations from their traditional lands, approx. 90 percent of them are Indigenous Newars³⁰ that project damages the Indigenous sacred places, religious sites and cultural heritages.
72. Hydropower and transmission projects are other "development" initiatives that have

²⁴ Nepal is divided into 7 provinces and 793 local levels (municipalities and rural municipalities)---Metropolitan city-6, Sub-metropolitan city-11, Municipality 276, Rural municipality-460) under the new state structure, federal structure.

²⁵ Constitution of Nepal, 2015 Art. 56(5)

²⁶ Ibid.

²⁷ United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Art. 25

²⁸ Indigenous and Tribal Peoples Convention, 1989 (No. 169) Art. 14(1)

²⁹ Nepal Social Inclusion Survey (NSIS), 2012).

³⁰ Household Survey conducted by LAHURNIP in 2017

severe adverse impacts to the lands and territories of IPs. Most of such projects are operated and planned to operate in the lands and territories of IPs causing adverse impacts to their livelihood, sacred places, and their displacements. Currently, there are a total of 683 proposed hydropower projects (37,000 MW)³¹ in various stages of planning and execution. The projects plan to use the lands and water currently under the customary rights of indigenous peoples. These hydro-dams will displace disproportionately large percentage of indigenous peoples. Data from one of the State-financed Budhi Gandaki hydropower project (1200MW) alone shows that 50,000 people will be involuntarily displaced.

73. Twelve national parks, one wild life conservation, one hunting reserve, six protected areas and 13 buffer zones occupy 23.39 percent of the total lands of the country. All these areas are in the ancestral lands of IPs. Many IPs, who have been living in these are from time immemorial, have already been displaced and lost their livelihoods and food security. Recently, despite protests of the IPs, the government has deployed army in the Dhor-Patan Hunting Reserve, in spite of protests by the concerned Magar and other IPs against such move.³² The hunting reserve generates millions of rupees as revenue every year but Indigenous Peoples do not get due share of the amount collected.

Problems and Challenges

74. Forced eviction of the Indigenous Peoples and local communities from their lands and territories.
75. Dispossession of the lands and natural resources by the State and non-state actors (privates sectors) without taking consent, giving compensation and sharing of benefits.
76. Militarization in the lands and territories of IPs in the name of security and development.
77. Destruction of IPs collective way of life.
78. No fair compensation and rehabilitations for the displaced IPs from parks and conservations

Suggested Recommendation for the Concluding Recommendations

79. Recognize IPs rights over lands, territories and natural resources that they have occupied customarily owned and used traditionally.
80. Ensure free, prior and informed consent of indigenous peoples prior to develop, design, plan implementation and evaluation of any development projects in the lands and territories of IPs.
81. Stop mobilization of security forces in the lands and territories of IPs in the name of development and security.
82. Ensure benefit sharing on the benefit emerge out of the commercial activities that exploits resource available in the lands and territories of IPs.
83. Ensure protection of IPs collective way of life that adversely affects by the business related activities.
84. Ensure representation of IPs in the planning, implementation and monitoring of development projects.
85. Stop development aggression in the lands and territories of IPs.

³¹ Nepal Electricity Authority, 2017.

³² Bishnu Prasad Shrestha and Bhoj Raj Pantha (2074 BS) *Nepal ka Samrachhit chhetra haru* (The Protected Areas of Nepal). Kathmandu: National Conservation and Wild Life Conservation Department.

Budget of Allocation
(Violation of Art 2.2 and General Recommendation 4.c)
Response to the government report (Part I, Section III, Para 42)

86. The practice of allocating budget for protection, development, and promotion of indigenous cultures, customs, festivals, languages, literatures, arts, folklores, histories, narratives and heritage of National Foundation for Development of Indigenous Nationalities (NFDIN) has been changed from this Fiscal Year (2017/18) with the argument that these areas fall under the jurisdiction of the governments of provincial and local levels, thus these areas became first victim of fiscal federalism.³³ Similarly, the allocation of budget to the IPs at the district level also have been stopped after restructuring of the State to the federalism.
87. In previous fiscal year, approximately US\$ 14,00,000.00 (Fourteen Hundred Thousand only) budget is allocated to the NFDIN, which is 0.003 percent of the total budget of the Country. Indigenous Organizations have direct access to the half of this budget and the rest is spent in administration of NFDIN. In this Fiscal Year, the Ministry of Local and Federal Affairs directly send half of the budget to the local bodies without any instruction to ensure access of indigenous peoples. Thus, no indigenous peoples get this budget and there is no any record and document of budget allocation.³⁴

Challenges

88. Difficulties to access to the public budget by the IPs at national and local level due to lack of their access in those institutions.
89. The policy makers allocated without considering IPs specifically does not reach to the IPs and that hinder on their socio-economic and cultural upliftments and development. This is evident that even there were separate budgets allocated for the IPs were too misused by the decision makers in the name of development.

Suggested Recommendation for the Concluding Recommendations

90. Need to allocate separate budget with plans and policies to the IPs for their socio-economic and cultural developments
91. GoN and its agencies including local bodies must prepare disaggregated data about their services and resources that have clear reflection of IPs access to.

Genocide of IPs cultures (Constitution, Muluki Ain, SC verdict)
(Violation of Art 6 and General Recommendation 23rd)

92. *Muluki Ain* (Civil Code) has a provision of quadruped that declares cow slaughter is a serious crime with 12 years of imprisonment³⁵ (the amended policy have provisioned for 3 years of imprisonment but yet to come to in effective). And, another provision awards an exemption from punishment of striking, cutting or killing a person in order to protect a Cow or ox.³⁶ Crime of Cow Slaughter is equivalent to homicide in accordance with the

³³ LAHURNIP. 2017 Base-Line Factsheets on the Situation of Indigenous Peoples of Nepal

³⁴ Information provided by NFDIN informant during interview that was held in March 7, 2018

³⁵ No 11 of the Civil Code, 1965

³⁶ Section 4 of the quadruped that says "where a person sees another person being ready, by taking up a weapon or otherwise, to intentionally kill a cow or ox, the person shall prohibit that other person from killing the cow or ox. Where that other person, rejecting such instruction, uses the weapon also against the person who so prohibits, and the person who strikes, cuts and kills that other person shall not be deemed to commit offense and be liable to punishment. In cases other than that mentioned above, any person shall not kill but shall arrest

statistic of Nepal Police. In last five years 184 cases of cow slaughter registered in the Police (See Table 1).

Table 2: Cases of cow Slaughtering filed to police against IPs and other

SN	Fiscal Year	No of Cases	Region					
			Eastern	Mid	Valley	Western	Mid Western	Far Western
1	July 2011-June 2012	38	10	7	1	14	6	0
2	July 2012-June 2013	30	16	2	1	10	1	0
3	July 2013- June 2014	39	13	7	1	15	3	0
4	July 2014- June 2015	38	4	6	1	13	13	1
5	July 2016-June 2017	39	8	13	0	12	3	3
	Total	184	51	35	4	64	26	4

Source: <https://www.nepalpolice.gov.np/images/statistic/webpage/index.html>

93. According to LAHURNIP study, most of accused are from Indigenous Peoples. The data does not disclose number of accused however; number will be significantly high due to the nature of a case. In general the charge sheet of cow slaughter is filed against group of people above four. In April, 10, 2018 four Tamangs from Makwanpur District were arrested in the charge of cow slaughter.³⁷ Hindu people consider a Cow is a sacred animal however, in indigenous peoples such as Rai, Limbu, Tamang, Thakalis need beef to offer their ancestor during their cultural worship. Thus, the provision criminalizing IPs *vis-à-vis* their culture.

Problems and Challenges

94. Criminalization of Indigenous Peoples and Cultures and many people are serving 12 years of imprisonment as well as prosecution. It is serious threat of cultural assimilation that qualifies cultural genocide against Indigenous Peoples. Indigenous Peoples are facing insecurity and the dignity of life has been under serious threat from this provision. This provision is directly inconsistent to article 4(1) that declares Nepal as a Secular State and article 32 (1) and (3) of the Constitution of Nepal, 2015 guarantees fundamental rights to participate cultural life of community and right to protect culture.

Suggested Recommendation for the Concluding Recommendations

95. Repeal provision relating to Cow Slaughter to respect secularism and eradicate criminalization of indigenous peoples and their culture.
96. Release without further delay of those who are serving imprisonment and drop out prosecution against accused of cow slaughter.

PART IV

INDIGENOUS WOMEN AND PERSONS WITH DISABILITIES

Indigenous Women

97. Demographically, women comprise 51.52 percent of the total population of Nepal. Indigenous women comprise 36 percent of the total women's population of Nepal. They have been facing multiple forms of discriminations; as women, as indigenous women and as Indigenous Peoples. Indigenous women have distinct identity, problems and issues in

and hand over such other person to the office."

³⁷ <http://www.news24nepal.tv/2018/03/10/273691visited> 12March2018.

compare to other women and indigenous men. The existing laws and policies relating to women do not recognize distinct identity and status of Indigenous women and their rights ensured by UNDRIP, ILO Convention No. 169, CEDAW and CERD general recommendation No. 25.

Problems and Challenges

98. Non-recognition of indigenous women and diversity among women in existing laws, plans and policies of the State, and also by the "mainstream" women's movement.
99. No separate quotas and special provisions for indigenous women within women.
100. Till now all laws, policies, plans and programs for mainstreaming or empowering of women are monopolized by the Bahun Chhetri women belonging to the dominant caste. IPs women have been deprived, excluded, marginalised, oppressed, suppressed, subjugated and exploited in both public and private spheres.
101. IPs women are losing means of livelihood and food security through their customary occupation and other economic activities and practices based on their traditional knowledge and skills because of lack of access to, control and use of lands, territories and resources.

Suggested Recommendation for the Concluding Recommendations

102. Recognize indigenous women as distinct entity in laws, policies, plans and programs of the government.
103. Formulate targeted policies and programs of economic empowerment of indigenous women based on their customary and traditional knowledge and skills.
104. Ensure Indigenous women's access to, ownership and control of lands and resources.
105. Ensure de facto equality, reservation and quota in every state structure based on the proportionality of population of Indigenous Women.
106. Ensure reservation and quotas focusing IPs women in laws, policies, plans and programs.

Indigenous Persons with Disabilities

107. According to the CBS data, the total population of persons with disabilities is 1.94 percent of the total population of Nepal, but there is no gender, caste ethnicity disaggregated data. The Indigenous Persons with disabilities are the most vulnerable in public and private spheres. However, there are no specific plans and programs existed to address these problems of the Indigenous Persons with disabilities. Putting all the disables in one basket, does not address the issues and rights of the Indigenous Persons with Disabilities.

Problems and Challenges

108. Non-recognition of indigenous persons with disabilities as distinct entity by the laws and policies.
109. Lack of separate quotas and special provisions for the indigenous disables among the women
110. Indigenous Persons with disabilities will not have equal rights and access to resources provided by government and other organizations (National and International).

Suggested Recommendation for the Concluding Recommendations

111. Recognize indigenous Persons with disabilities in laws, policies, plans and programs.
112. Provide disaggregated data based on caste and ethnicity that gives clear situation of Indigenous Persons with disabilities.

113. Formulate plans and policies for capacity development and inclusion of IPs disables in the decision-making and implementation process.
114. Implement the Concluding Observation of the 19th session of CRPD in relation to the Indigenous Persons with Disabilities.

PART V

ACCESS TO JUSTICE

Violation of Article 6 and General Recommendation 4.a and b

Response to Government Report Section III (106)

115. The Constitution and laws relating to justice system do not formally recognize indigenous customary laws and justice system even though they are strongly functioning in many indigenous communities that includes *Barghar/Bhalmansa/Matawa* in Tharu; 13 *Ghampa* system in Thakali, *Majhihadam* in Santhal. All community members actively participate in deliberations, decision making and its implementation. The increasing presence of and interventions from the State justice system is weakening customary laws and justice system.

Problems and Challenges

116. The official language of justice administration is Nepali (Khas Nepali)³⁸. And, 123 languages spoken in Nepal and most of these languages are spoken by Indigenous Peoples (CBS 2011). Language barrier is another factor that hinders IPs to access to justice.
117. Referring to the constitutional provision of secularism, a PIL was filed in the Supreme Court to strike down the No. 11 of the Quadraped Chapter of the civil code (*Muluki Ain*) that makes cow slaughter crime with 12 years³⁹ of imprisonment and most of the IPs and their culture was criminalized by this provision. From the Single Bench of Justice Govinda Prasad Upadhyaya, the Supreme Court not only refused admissibility of the case but also warned a lawyer not to bring such kind of case afterward, if any lawyer brings such kinds of cases he or she can be black listed.⁴⁰ Further the decision says, if an Order is issued in accordance with Writ Petition, that is filed against Hindu Sects shall offend dignity and faith of Hindus⁴¹

Suggested Recommendation of the Concluding Recommendations

118. Amend laws relating to justice system, including Mediation Act, 2011, *Sthaniya Nikaya Sanchalan Karyabidhi Ain* (Local Body Procedural Act, 2018), to recognize indigenous customary law and justice system to make it compatible to the ILO Convention No. 169 and the UNDRIP.
119. Ensure proportional inclusion of Indigenous Peoples Judiciary in particular appointment of judges in the Supreme Court, High Courts and District Court in accordance with the article 42 of the Constitution.

³⁸ Article 7(1) of the Constitution of Nepal, 2015

³⁹ Amended policy has provisioned for 3 year but yet to come into effective.

⁴⁰ Tekamprasad Gharti vs. Law and Justice Ministry et.a. Writ No. 071-WS-0001, the was issued in September 14, 2014

⁴¹ Ibid.

Annexes

Annex I: Details of the Submitting Organizations

1. Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), Kathmandu Metropolitan City-29, Anamnagar, Kathmandu, PO Box No.: 11179, Email: lahurnip.nepal@gmail.com, Website: www.lahurnip.org, Contact# +977 01 4268510
2. Nepal Federation of Indigenous Nationalities (NEFIN), Kusunti, Lalitpur, Nepal
Email: info@nefin.org.np, www.nefin.org.np

Following are Indigenous Peoples Organizations affiliated to NEFIN

SN	IPs	Organization Name	Address
1	Kishan	Kishan Samudaya Club	Mechinagar-4, Magurmadi, Jhapa
2	Kumal	Nepal Kumal Samaj Sudhar Samiti	Anamnagar, Kathmandu
3	Gangai	Nepal Gangai Kalyan Parishad	Madhumara-11, Biratnagar, Morang
4	Gurung	Tamoo Hyul Chhanjdhi	Mitranagar, Gangabu, Kathmandu
5	Chepang	Nepal chepang (Praja) Sangh	Pulchok, Lalitpur
6	Chhantyal	Nepal Chhantyal Sangh	Manamaiju, Kathmandu
7	Jirel	Jirel Samudaya Utthan Sangh Nepal	Jiri, Dolakha, Nepal
8	Jhagad	Nepal Jhagad (Urau) Kondrom Sudhara	Laukahi-6, Sunsari
9	Tajpuriya	Tajpuriya Samaj Kalyan Parisad	Juropani-5, Gauriganj, Jhapa
10	Tamang	Nepal Tamang Ghedung,	Bagbazar, Kathmandu
11	Tangbe	Tangbe Samaj Sewa Sangh	Mahendrapul, Pokhara
12	Topkegola	Tokpegola Welfare Society	Kathmandu, Nepal
13	Thakali	Thakali Sewa Samiti	Binayakbasti, Balaju
14	Tami	Nepal Thami Samaj	Koteshor Kathmandu
15	Tharu	Tharu Kalnyankari Sabha	Purano Baneshor, Kathmandu
16	Danuwar	Danuwar Jagaran Samiti	Purano Baneshor, Kathmandu
17	Darai	Nepal Darai Utthan Samaj	Chitawan
18	Dura	Dura Sewa Samaj	Basundhara, Kathmandu
19	Dhimal	Dhimal Jati Bikas Kendra,	Urlabari-6 Morang
20	Newar	Newa Deya Dabu,	Tamsipakha, Kathmandu
21	Pahari	Nepal Pahari Bikash Sangh	Kumaripati, Lalitpur
22	Baram	Nepal Baram Sangh	Kaldhara-16, Kathmandu
23	Bote	Nepal Bote Samaj Seaw	Bharatpur-10, Chitwan
24	Bhujel	Bhujel Samaj Sewa Samiti	Dillibazar, New Plaza, Kathmandu
25	Bhote	Nepal Bhote Janajati Sewa Samiti	Martadi, Bajura
26	Magar	Nepal Magar Sangh	Shantinagar, Kathmandu
27	Majhi	Nepal Majhi Utthan Sangh	Madhuwan-7, Sunsari
28	Mugal	Mugal Janajati Samaj Kalyan Kendra	Mugu
29	Meche	Meche Samaj Sibiyari Afat	Jorsimal, Mechinagar-12, Jhapa
30	Yakkha	Kirat Yakkha Chhumma	Mahalaxmasthan, Lalitpur
31	Limbu	Kirat Yakthung Chumlung	Mahalaxmasthan, Lalitpur

32	Rai	Kirat Rai Yayokkha	Koteshor Kathmandu
33	Rajbanshi	Rajbanshi Samaj Bikash Samiti	Biratnagar, Madhumara, Morang
34	Raji	Raji Salma Samaj	Tikapur-9, Kailali
35	Lapcha	Rong Sejum Thi	Fikkal-6, Ilam
36	Larke	Larke Samaj Kalyan Kendra	Kuleshor, Kathmandu
37	Walung	Walung Sewa Samaj	Ghattekulo, Kathmandu
38	Lhomi	Lohmi (Singa) Kalyan Kendra	Kathmandu, Nepal
39	Sherpa	Nepal Sherpa Sangh	Kumarigal, Baudha, Kathmandu
40	Byasi	Byasi Sauka Samaj	Khalanga, Darchula
41	Santhal	Nepal Santhal Aadibashi Utthan Sangh	Majhare-8, Morang
42	Siyar	Siyar Samaj Kalyan Kendra	Swambhu, Kathmandu
43	Sunuwar	Sunuwar Sewa Samaj	Koteshor Kathmandu
44	Hayu	Bayu Gukhata Kolu Padakmi (Hayu)	Ramechhap, Nepal
45	Hyalmo	Nepal Hyolmo Samaj Sewa Sang	Baudha, Kathmandu
46	Marfali	Marfa Thakali Samaj Sewa Sadan	Chapapani, Kaski, Pokhara
47	Tingaule Thakali	Tin Gaule Thakali Sewa Samiti	Thakalichok, Pokhara
48	Dolpo	Nepal Dolpo Janajati Bikash Kendra	Baudha, Kathmandu
49	Thudam	Thudam Sewa Samaj	Baudha, Kathmandu
50	Surel	Surel Jati Utthan Samaj	Dolakha
51	Dhanuk	Nepal Dhanuk Samaj	Gwarko Lalitpur
52	Kuchbadhiya	Kuchbadhiya Utthan sangh	Nepalganj, Banke
53	Bahragau	Bahragau samaj Sewa Samiti	Jomsom, Mustang
54	Lhopa	Lochhodun Lhopa Sangh	Lomanthang, Mustang
55	Raute	Nepal Raute Bikash Sangh	Jogbudha-1, Dadeldhura
56	Kusunda	Nepal Kusunda Bikash Samaj	Dang, Nepal

3. National Indigenous Women Federation, Nepal (NIWF), Buddhanagar, Kathmandu, Nepal, Email: niwf2057@gmail.com, www.niwf.org.np

Following are the Indigenous Women's Organizations affiliated to the NIWF

S.N	IPs	Name of Organization	Email Address
1.	Newar	Nepal Bhasa Misha Khala, Central Committee- Kathmandu	nananewa@yahoo.com premhiraatuladhar@gmail.com mrs.shreejanapradhan@gmail.com
2.	Magar	Nepal Magar Mahila Sangh, Central Committee- Kathmandu	
3.	Sunuwar	Sunuwaar Mahila Samaj, Central Committee- Kathmandu	sunuwarlaxmi32@gmail.com 1583sunuwar@gmail.com
4.	Rai	Nepal Kirat Rai Mahila Sangh, Central Committee- Kathmandu	mrs.somarai@gmail.com gole_sushila@yahoo.com
5.	Tharu	Tharu Mahila Jaagaran Kendra, Central Committee- Kathmandu	phulmati45@yahoo.com
6.	Tamang	Nepal Tamang Mahila	sunilama28@gmail.com

		Ghedung, Central Committee- Kathmandu	ntwghedung@gmail.com shramiklama@gmail.com
7.	Thakali	Thakali Mahila Sangh, Central Committee- Kathmandu	kusumbishalnagar@gmail.com
8.	Majhi	Nepal Majhi Mahila Utthaan Sangh, Central Committee- Kathmandu	sismajhi@gmail.com majhimahima@gmail.com bndmajhi@hotmail.com
9.	Kumal	Nepal Kumal Mahila Samaj Sudhar Samiti, Central Committee- Kathmandu	kalpanakumal@hotmail.com
10.	Walung	Walung Mahila Sangh, Central Committee- Kathmandu	
11.	Gurung	Nepal Gurung (Tamu) Mahila Sangh, Central Committee- Kathmandu	grgck01@gmail.com
12.	Danuwar	Danuwaar Mahila Samaj Sudhar Sangh, Central Committee- Udayapur	sanjadanuwar11@gmail.com
13.	Sherpa	Nepal Sherpa Mahila Sangh, Central Committee- Kathmandu	atesnimi@wlink.com.np
14.	Pahari	Nepal Pahari Mahila Bikash Sangh, Central Committee- Lalitpur	
15.	Meche	Meche Mahila Utthaan Sangh, Central Committee- Jhapa	punam.meche@yahoo.com
16.	Rajbanshi	Rajbanshi Mahila Sangh, Central Committee- Jhapa	
17.	Limbu	Kirat Yakthung Maangena Chumlung, Central Committee- Kathmandu	
18.	Lhomi	Lhomi Mahila Kalyan Manch, Central Committee- Lalitpur	chhing9@hotmail.com
19.	Dolpo	Palden Dolpo Mahila Sangh, Central Committee- Kathmandu	
20.	Mugal	Mugal Adivasi Janajati Mahila Utthaan Sanstha, Central Committee- Kathmandu	tomalama123@yahoo.com
21.	Byasi Sauka	Byasi Sauka Mahila Sangh, Central Committee- Kathmandu	pushpa_lala@yahoo.com
22.	Chhantyal	Nepal Chhantyal Mahila Sangh, Central Committee- Kathmandu	
23.	Barhagaule Thakali	Barhagaun	tashi3248@yahoo.com

		Chhimighyarcha Mahila Samaj Sewa, Central Committee- Kathmandu	
24.	Tajpuriya	Tajpuriya Mahila Utthaan Sangh, Central Committee- Jhapa	
25.	Bhujel	Bhujel Mahila Samaj, Central Committee- Kathmandu	
26.	Jirel	Jirel Mahila Samaj Sewa, Central Committee- Dolakha	shantijirel@hotmail.com
27.	Gangai	Nepal Gangaai Mahila Parishad, Central Committee- Jhapa	
28.	Dhanuk	Dhanuk Mahila Samaj, Central Committee- Kathmandu	dhanukwomen@gmail.com
29.	Dura	Dura Mahila Samaj, Central Committee- Kathmandu	dilu.dura123@gmail.com
30.	Chepang	Nepal Chepang Mahila Sangh, Central Committee- Kathmandu	chepangwoman@gmail.com
31.	Dhimal	Dhimal Mahila Sangh, Central Committee- Morang	dhimalmanju7@gmail.com
32.	Yakkha	Yakkhama Yapsen, Central Committee-Lalitpur	indirajimee@yahoo.com
33.	Baram	Nepal Baram Mahila Sangh, Central Committee- Kathmandu	tarabaram@yahoo.com
34.	Thami	Nepal Thami Mahila Samaj, Central Committee- Kathmandu	nanu.thami@yahoo.com
35.	Hyolmo	Nepal Yolmo Woman Association, Central Committee-Kathmandu	Buddhamaya14@gmail.com
36.	Surel	Surel Jati Mahila Utthan Samaj	
37.	Jhagad	Nepal Jhagad Mahila Sangh	
38.	Bhote	Nepal Bhote Janajati Mahila Sangh	
39.	Darai	Nepal Darai Mahila Samaj	
40.	Kusunda	Kusunda Mahila Bikash Samaj Nepal	
41.	Bankariya	Bankariya Mahila Bikash Sangh	
42.	Topkegola	Topkegola Mahila Samaj Sewa Samiti	

4. Youth Federation of Indigenous Nationalities, Nepal (YFIN-Nepal), Bagbazar, Kathmandu Nepal, Email: yfin.nepal@gmail.com, www.yfin.org.np

Following are the Indigenous youth organizations affiliated to the YFIN, Nepal

1. Nepal Magar Youth Association, Central Committee
2. Tamu hyula youth chhonj ghi, Central Committee
3. Newa lyamha daboo, National Committee
4. Nepal Tamang Youth Ghedung, Central Committee
5. Tharu KalyanKarini Youth Shabha, Central Executive Committee
6. Kirat Yakthum Youth Chumlung
7. Nepal Chhantyal yuwa sangh
8. Kirat Rai Youth Association
9. Nepal Sherpa Youth Association
10. Nepal Kumal Yuwa Samaj
11. Nepal Hyalmo Youth Samaj
12. Danuwar Youth Samiti
13. Kirat Sunuwar Youth Association
14. Kirat Aathpahariya Youth Samaj
15. Nepal Baram Youth Association
16. Nepal Dura Youth Association
17. Nepal Tajpuriya Youth Samaj
18. Urau Youth Samaj
19. Rajbamshi Youth Committee
20. Bhite Yuwa Samaj
21. Nepal Done Youth Sangh
22. Nepal Khawas Youth Samaj
23. Kirat Kulung Youth Samaj
24. Nepal Bhujel Youth Samaj
25. Kirat Khaling Youth Samaj
26. Kirat Bahing Youth Association
27. Nepal Chepang Youth Association
28. Nepal Jirel Youth Association
29. Kirat Jero Youth Samaj
30. Karmarong Youth Samaj
31. Thakali Yuwa Samaj
32. Nepal Thami Youth Association
33. Darai Youth Association
34. Nepal Lapcha Youth Association
35. Surel Youth Committee
36. Topkegola Youth Committee
37. Kirat Thulung Youth Samaj
38. Nepal Dhanuk Youth Association
39. Lapcha Youth Association
40. Kirat Yakhkha Youth Chhumma
41. Nepal Walung Youth Sewa Samaj
42. Majhi Youth Sudhar Samiti

5. Nepal Indigenous Disabled Association (NIDA), Bhawanimandal, Lalitpur, Email: info@nidanepal.org.np, www.nidanepal.org.np
6. National Indigenous Disabled Women Association Nepal (NIDWAN), Bhawanimandal, Lalitpur, Email: info@nidwan.org.np, www.nidwan.org.np
7. Indigenous Women's Legal Awareness Group (INWOLAG), Kumaripati, Lalitpur Email: inwolag@yahoo.com, www.inwolag.org.np
8. National Coalition Against Racial Discrimination (NCARD), Sahayogi Marg-32, Anamnagar, Kathmandu Metropolitan City, Email: ncardnp@gmail.com, ncard2003@gmail.com, website: www.ncard.np.org, Ph.: +977 01 4102601
9. Athar Magarat Magar Pratisthan, Kathmandu Metropolitan City-14, Kalanki, Kathmandu, Ph: 01 52181688
10. Lila Phang (Ghale Samaj), Kathmandu Metropolitan City-29, Samakhushi, Kathmandu, Ph.: +977 01 4352798

Annex II: Judicial detainees: Tharu Leaders, Youth and Children in Kailali District Jail in the Charge of Homicide, attempt to murder and Theft

SN	Name, Age and Address	Court	Time	Arrested from	Remark
1.	Karan Chaudhary Age: 14 Kailali District, Munuwa VDC-4	Kailali District Court	11 September, 2015	House	Children Remand Home Kaski
2.	Shrawan Chaudhary Age:15 Kailali District, Munuwa VDC-4		11 September, 2015	House	Children Remand Home Kaski
3.	Pradip Chaudhary Age: 18 Kailali District Munuwa VDC-4	"	24 August 2015	House, while tutoring children from village	Children Remand Home Kaski
4.	Bishram Chaudhary Age: 24 Kailali District, Pathraiya VDC-1	"	10 September 2014	House	Person with disability
5.	Jit Bahadur Dagaura Age: 46 District Kailali, Thapapur VDC-6	"	22 August 2015	House Night	
6.	Santosh Kumar Tharu Age: 31 District Kailali, Tikapur Municipality-5	"	3 September, 2015	Near Sukhad Police Check post	
7.	Ram Naresh Chaudhary Age: 31	"		School: while teaching	
8.	Bir Bahadur Chaudhary Age:34 Tikapur Municipality-1	"	29 August 2015	House: Midnight, while sleeping	
9.	Santaram Chaudhary Age: 33 Kailali Thapapur VDC-5	"	12 May 2016	House	
10.	Kisan Lal Chaudhary Age: 36 Kailali District, Thapapur VDC-5	"	29 August 2015	House: Night 1'Oclock, while sleeping	
11.	Rajesh Chaudhary Age: 35 Kailali District, Thapapur VDC-7		30 August 2015	House: Night 1'Oclock, while sleeping	
12.	Prem Bahadur Chaudhary Age:40 Kailali District, Bhajani Trishakti Municipality 4		25 August 2015	Shop	
13.	Brija Mohan Dagoura Age 34 Kailali District, Thapapur VDC-7		30 August 2015	House 2'o clock night	
14.	Ram Kumar Kathariya Age:20 District Kailali, Munuwa	"	25 August, 2015	Hospital	

	VDC-1, Kanchanpur				
15.	Nurul Ali Jaga Age:33 Kailali District, Thapapur VDC-7, Khaira	"	8September 2015	House	
16.	Ram Prasad Chaudhary Age:46 Kailali District, Joshipur VDC-4		25 August 2015		
17.	Hari Narayan Chaudhary Age: 22 District Kailali, Munuwa VDC-4, Okharpur		25 August 2015	Hospital	
18.	Dil Bahadur Chaudhary Age: 20 District Kailali, Munuwa VDC-1,kanchanpur		25 August 2015	Hospital	
19.	Sundar Lal Kathariya Age: 32 District Kailali, Munuwa VDC-1,Kanchanpur		25 August 2015	Hospital	
20.	Laxman Tharu Age:40 Kailali Fulbari VDC-1		9 September 2015	Bhairahawa	
21.	Lahuram Chaudhary Age:58 Kailali District Dhangari Municipality-3		10 September 2015		
22.	Rajkumar Kathariya Age:25 Kailali District, Munuwa VDC 1	"	25 August 2015	Hospital	
23.	Chunniram Chaudhary, Age: Kailali District, Joshipur 7		13 September, 2015	House	
24.	Bisaram Kusmi (Tharu) Age: District Kailali, Narayanpur VDC-6		5 April 2016	House	
25.	Shanta Kumar Chaudhary Age: Kailali District, Thapapur VDC-7, Nawalpur		12 May 2016	House	
26.	Resham Lal Chaudhary Age: Kailali District, Durghauli VDC-9 Jagatpur		26 February 2018	Kailali District Court	Recently won in Election

These people were accused of Kailali incident were 7 police personnel were died. None of these people claimed that they were there while casualties occurred. Clash between people and police took place when peaceful procession was organized to demand Tharuhat Autonomy (Self-rule for Tharus) in accordance with various sources.

Annex III: List of Indigenous Leaders and youths judicial detainees in charge or Organized Crime and Treason

S.N	Name	Jail	Court of Ordering	Time	Remark
1	Upendra Gharti Magar-Age 30 Yrs Rukum District, Jang VDC-2	Dillibazar Kathmandu	Bhaktapur District Court		
2	Suchindra Palungwa Age- 33 Bhaktapur District, Madyapur Thimi Municipality 16	"	"	19 October 2016	
3	Subash Chandra Rai Age- 32 Khotang District Salle VDC-5	"	"	20 October 2016	
4	Rabin Shrestha Age- 29 Sindhupalchok District Chautara Municipality 5	"	"	22 October 2016	
5	Ajay Tamang Age -18 Sindhupalchok District Gumba VDC-5	"	"	23 October 2016	Child under CRC
6	Ban Bahadur Tamang Age -21 Sindhu palchok District Golche VDC-4		"	24 October 2016	On Bail
7	Tulke Shrestha Age -39 Sindhupalchok Distric, Chautara Municipality- 5	"	"	26 October 2016	
8	Prithvi Narayan Limbu (Age 71) Taplejung District Sikaicha VDC-2		"	20 October 2016	On bail
9	Temdi Sherpa Age -45 Ramechap District, Gumdel VDC-1				
10	Chandra Bahadur Gharti Age - 36 Rolpa District, Siwdi VDC-4	"	"		
11	Dujaman Gharti Age -22 Rolpa District, Siwdi VDC-1				
12	Ram Bahadur Buda Age -30 Rolpa District, Siwdi VDC-8	"	"		
13	Lok Bahadur Buda Age- 32 Rolpa District, Siwdi VDC-8	"	"		
14	Jog Bahadur Gharti Age-30 Rolpa District, Siwdi VDC-7	"	"		

Source: Charge Sheet of Police submitted to the District Court

(Not: There is high chance of relocate detainees in different jails)

Annex IV: Caste Ethnic Composition at local, provincial and federal levels

Federal Member (Proportional Representation) by caste/ethnicity

Caste /Ethnicity	Caste/ethnicity		Total	Percentage
	HBC	(Khas Arya) Hill Bahun Chhetri	33	30.00
	HD	Hill Dalit	14	12.73
	HJ	Hill Janajati	29	26.36
	Madhesi	Madhesi	22	20.00
	Muslim	Muslim	4	3.64
	TD	Tarai Dalit	1	0.91
	TJ	Tarai Janajati	7	6.36
	Total		110	100

Federal Member (FPTP) by caste/ethnicity

Caste /Ethnicity	Caste/ethnicity		Total	Percentage
	HBC	(Khas Arya) Hill Bahun Chhetri	86	52.12
	HD	Hill Dalit	2	1.21
	HJ	Hill Janajati	36	21.82
	Muslim	Muslim	3	1.82
	Madhesi	Madhesi	27	16.36
	TJ	Tarai Janajati	11	6.67
			165	100

Upper House Member	Caste/ethnicity		Total	Percentage
	HBC	(Khas Arya) Hill Bahun Chhetri	34	60.71
	HD	Hill Dalit	6	10.71
	HJ	Hill Janajati	9	16.07
	Madhesi	Madhesi	5	8.93
	Muslim	Muslim	0	0.00
	TD	Tarai Dalit	1	1.79
	TJ	Tarai Janajati	1	1.79
			56	100

SN	Caste/ethnicity		Federal		Total	%	Upper House	%	Total	%
			FPTP	PR						
1	HBC	(Khas Arya) Hill Bahun Chhetri	86	33	119	24.04	34	60.71	153	46.22
2	HD	Hill Dalit	2	14	16	3.23	6	10.71	22	6.65
3	HJ	Hill Janajati	36	29	65	13.13	9	16.07	74	22.36
4	Madhesi	Madhesi	27	22	49	9.90	5	8.93	54	16.31
5	Muslim	Muslim	3	4	7	1.41	0	0.00	7	2.11
6	TD	Tarai Dalit	0	1	1	0.20	1	1.79	2	0.60
7	TJ	Tarai Janajati	11	7	18	3.64	1	1.79	19	5.74
	Total		165	110	275	55.6	56	100	331	100

Provincial FPTP	Caste/ethnicity		Total	%
	HBC	(Khas Arya) Hill Bahun Chhetri	168	50.91
	HD	Hill Dalit	5	1.52
	HJ	Hill Janajati	73	22.12
	Madhesi	Madhesi	58	17.58
	Muslim	Muslim	8	2.42
	TD	Tarai Dalit	1	0.30
	TJ	Tarai Janajati	17	5.15
			330	100

Analysis of Provincial Parliament Member (Proportional Representative) by Caste and Ethnicity										
Caste/ethnicity		Province							Total	%
		1	2	3	4	5	6	7		
HBC	(Khas Arya) Hill Bahun Chhetri	9	1	15	9	16	12	13	75	34.1
HD	Hill Dalit	2	0	2	4	6	3	4	21	9.55
HJ	Hill Janajati	19	3	26	11	2	1	0	62	28.2
Muslim	Muslim	1	4	1	0	2	0	0	8	3.64
Madhesi	Madhesi	2	32	0	0	2	0	0	36	16.4
TD	Tarai Dalit	2	2	0	0	2	0	0	6	2.73
TJ	Tarai Janajati	2	1	0	0	5	0	4	12	5.45
	Total	37	43	44	24	35	16	21	220	100

SN	Caste/ethnicity		Provincial		Total	%
			FPTP	PR		
1	HBC	(Khas Arya) Hill Bahun Chhetri	168	75	243	44.18
2	HD	Hill Dalit	5	21	26	4.73
3	HJ	Hill Janajati	73	62	135	24.55
4	Madhesi	Madhesi	58	8	66	12.00
5	Muslim	Muslim	8	36	44	8.00
6	TD	Tarai Dalit	1	6	7	1.27
7	TJ	Tarai Janajati	17	12	29	5.27
	Total		330	220	550	100

Annex V: Proposal on the prepared by Indigenous Parliamentarian CAUCUS in Consultation with Indigenous Peoples, submitted to the First Constituent Assembly
(None of these rights are incorporated in the New Constitution of Nepal, 2015)

- 1) Right to live with dignity:
Indigenous peoples shall have the right to live with dignity with due respect to their individual and collective identity and rights.
- 2) Right to Freedom:
Every citizen and community will have the freedom to establish organizations or run their cultural and representative organizations.
- 3) Right to Equality:
Every citizen and community will be equal in front of the law. No one shall be denied of equal legal protection and benefit/services.
- 4) Right to Justice:
Every individual and community's right to justice shall be protected. Indigenous peoples will have the right to practice their judicial/legal organizations/structures and customary law in line with the constitution and international law. Judicial, quasi-judicial and administrative bodies and its respective jurisdiction will uphold the indigenous peoples' customary law in line with international legal standard.
- 5) Right of the victim and accused:
Any victim or the accused will have the right to represent themselves in their mother tongue during any prosecution, investigation procedures in which they are implicated.
- 6) Right to Religious Freedom:
The State will not conduct any activity that will directly or indirectly discriminate on the basis of religious or reflect such religious discrimination.
- 7) Right to Information:
The speakers of mother tongue will have the right to receive information of public interest and importance in their mother tongue.
- 8) Right to Environment:
Indigenous peoples shall have the right to protect, promote, manage, use and enjoy the environment of their ancestral land and settlement areas.
- 9) Right to Education:
Every community shall have the right to receive education in their mother tongue. The State will introduce/manage the effective structure for the enjoyment of this right.
- 10) Women's Rights:
 - a. Women will have the right of absolute proportional representation in all of the State mechanisms. This will be based on the total women population. The State for the fulfillment of this right will prioritize Indigenous women, Dalit women, Muslim women, women from Terai and Madheshi community, and women from severely marginalized community.
 - b. Indigenous women will have the right to their identity. The State shall adopt special measures to protect the right to identity. Indigenous women will have the special right to receive their ancestral property bestowed on them by their customary law.
- 11) Right to Self-determination:
 - a. Indigenous peoples will have the right to self-determination on the basis of which they can freely ascertain their political context; foster economic, social and cultural developments; own, control, use, enjoy and manage their ancestral land and natural resources.

- b. Indigenous peoples shall have rights to practice their right to self-determination through autonomy, self-rule and self-governance.
 - c. On the basis of ethnic population, indigenous peoples will have the right to inclusive proportional representation at all decision making regions and levels of the State. The indigenous peoples shall have the right to inclusive proportional representation on election constituency (decided by the State) and decisive State structures. The State, through separate election constituency and electoral system will manage a system that shall enable the indigenous peoples to enjoy their equal right and status.
 - d. Indigenous peoples shall have the right to receive free, prior, informed, consent (FPIC) while the State formulates, reviews, or annuls the legislations related or concerned with the indigenous peoples; while carrying out any works related to the land management, administrative, policy and development. The indigenous peoples shall have the right to receive such information through their customary and representative organizations.
 - e. The State will formulate necessary law, policy and regulations for the implementation of free, prior, informed consultation (FPIC), participation and representation.
- 12) Right to land and natural resources:
- Indigenous peoples will have the right to own, use, enjoy, manage, promote and control their ancestral land, geographical region and natural resources.
- 13) Right to indigenous knowledge and heritage:
- a. Indigenous peoples shall have the right to protect, develop, promote and practice distinct traditional indigenous art, knowledge, skills, or expertise as intellectual property and enjoy, protect and promote accordingly. This right shall be inviolable and subject to punishment in the case of violation.
 - b. Indigenous peoples will have the right to conserve, promote and develop their cultural, archeological, historical and natural heritage. This right shall be inviolable.
- 14) Indigenous Women's right to Women's rights:
- a. Indigenous women will have the right to their identity. They shall have the right to effective remedy against any kind of descent and racial (identity) based discrimination and exploitation.
 - b. The State, through law, policy and programmes or special measures shall protect the progress, development and rights of the indigenous women.

Annex VI: Agreement reached between the Government Talks Team comprising seven parties and the Federal Limbuwan State Council on 19 March 2008

The feudalist and centralized state authority and unitary state structure has exploited, oppressed and isolated the people of Limbuwan from mainstream. (The Federal Limbuwan Statue Council) has been expressed its dissatisfaction over it. Realizing the said norms and sentiments of historic *Jana Andolan* 2006 to restructure the state and in the context of the movement being carried with demands for a federal democratic republic with the right to self-determination and autonomy along with ethnic identity, we, the parties mentioned below have reached the following agreement expressing commitment to build a peaceful, prosperous and modern new Nepal by incorporating all Nepali people including Limbuwan in one national mainstream while restructuring the state.

1. The Federal Governance system shall be adopted by making constitutional provision for autonomous states on the basis of historic background of Limbuwan, geographical area etc. while restructuring of current Nepal from the Constituent Assembly thereby addressing the immense desire of the people of Limbuwan and their movement, and maintaining the national unity, integrity and indivisibility.
2. Honouring Late Rajkumar Angdembe (Mangtok) who attained martyrdom during the movement carried out by the people of Limbuwan as the martyr, his family shall be provided a compensation of one million rupees. The Government shall make arrangements for the treatment of those injured and provide compensation for the losses occurred during the movement. The Government shall withdraw the charges filed against the agitators.
3. The representation of Federal Limbuwan State Council shall be ensured while forming the State Restructuring Commission.
4. The agreements reached in the previously mentioned points shall be ratified by the Council of Ministers and made public.
5. Following today's agreement between the two sides all programmes of agitation announced by the Federal Limbuwan State Council shall be adjourned and support shall be extended to create conducive atmosphere for the Constituent Assembly election.