

Date: 11 September, 2009

Press Release

At a time when the debates on issues such as bases of state restructure, right to self determination, autonomy, and federalism is gaining momentum, the indigenous intellectuals, political parties of indigenous people and organizations from across 12 countries of Asia including Nepal gathered for a 5-days extensive-interaction workshop in Dhulikhel in order to ensure the federal set-up with the right to self determination, autonomy and self rule as well as to develop a common understanding, join hands for a common voice and chart a roadmap among the indigenous people themselves. With two separate sessions for national and international participants, the seminar was concluded in two phases.

The participants from Nepal, Bangladesh, Malaysia, Thailand, Vietnam, Philippines, India, Colombia, Cambodia, England, Burma, and Papua indigenous people from Indonesia actively participated in the seminar. The seminar was organized by the Nepal Federation of Indigenous Nationalities, National Indigenous Women's Federation, Nepal Indigenous NGO Federation and Lawyers' Association for the Human Rights of Nepalese Indigenous People (LAHURNIP).

This workshop of the political parties of Indigenous people, representatives of ethnic organizations and indigenous intellectuals also issued a common declaration regarding the need to guaranty the rights of the Indigenous people in the new constitution.

"We acknowledge and recognize the individual and collective rights of Indigenous peoples guaranteed by various national and international laws, especially the UN charter, the Covenant on the Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on Elimination of all forms of Racial Discrimination, UN Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, ILO Convention No. 169, UN Declaration on the Rights of Indigenous Peoples, Interim Constitution of Nepal, 2007, National Foundation for Development

Indigenous Nationalities Act (2002), that guaranty the inalienable human rights of Indigenous people and their basic freedom, hereby issue this common declaration," states the declaration.

The Declaration is attached with this press release.

Organiser/Convenor:

Secretary of Lawyers' Association for the Human Rights of Nepalese Indigenous People (LAHURNIP)- Shankar Limbu

Nepal Federation of Indigenous Nationalities, District Coordination Council, Kailai-Laxman Tulachan

National Indigenous Women's Federation, General Secretary, Soma Rai

Nepal Indigenous NGO Federation, President, Yam Bahadur Kulung

Ensuring the Rights of Indigenous Ethnic Groups

The Dhulikhel Joint-Declaration

2066 Bhadra 26 (*11 September 2009*)

We, the (following) political parties of the indigenous ethnic groups, representatives of the ethnic organizations and intellectuals representing indigenous (peoples) ethnic groups, in order to ensure the rights of the indigenous ethnic groups, through a joint meet, would like to issue this Declaration by using the national and international laws that guaranty our basic freedom and our inalienable rights, especially the UN Charter, The Covenant on Civil and Political Rights, The International Covenant on Economic, Social and Cultural Rights, the International Convention on Elimination of all Forms of Racial Discrimination, the UN Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, ILO Convention no. 169, the UN Declaration on the Rights of the Indigenous Peoples, and the individual and collective rights guaranteed by the Interim Constitution of Nepal-2007, and the National Foundation for Development of Indigenous Nationalities Act (2002).

Regarding the Constitution Making Process

The Preamble, Articles, clauses and schedules of the new constitution that are related to and influence indigenous ethnic groups should be passed only after establishing thematic committees in the CA and other relevant mechanism with the prior informed independent consent of the indigenous people in order to ensure their meaningful and effective representation according to the provisions of international laws ratified by Nepal, the letter of caution written to Government of Nepal by the Monitoring Committee on the Convention on Elimination of All Forms of Racial Discrimination and the recommendations made by the United Nation's special rapporteur to oversee the issues related to human rights of the indigenous people.

Provisions regarding the identity and individual and collective rights of the indigenous people should be introduced separately.

Regarding the rights of the Indigenous People

1. The new constitution must at least incorporate the rights of indigenous peoples, word by word, as guaranteed by the international laws.
2. All the indigenous peoples shall have the right to self determination. By exercising this right, indigenous peoples, through traditionally and independently established organizations and judicial institutions, shall have the right to adopt the legislative, administrative and other measures and implement them according to traditionally and independently determined judicial systems, norms and values to ensure autonomy and self rule for their community in the areas they inhabit. Except for the rights relating to external security, foreign policy, and currency, they shall (under this provision) have all other rights including the right to priority to establish self-ruled autonomous provinces within the federal set up on the basis of historical background, ethnicity and language.
3. The indigenous people shall have the right to determine their identity and have membership to the community as well as to determine the responsibilities community members towards the community according to their customs and traditions. This shall not minimize the rights of individuals/members of the concerned community to obtain and retain the citizenship of the Federal Republic Nepal and the right to exercise other rights as an equal to other citizens of the country.
4. The indigenous people shall have the right to (use) their mother tongue and they shall have rights to use their mother tongue in each organ and level of the state.
5. The individual and collective rights as well as human rights of the Indigenous peoples that are guaranteed by the ILO convention no. 169 and the UN Declaration on the Rights of Indigenous Peoples, and other international laws shall be fully recognized, guaranteed and protected. If

their individual/collective rights and human rights are violated, they shall be provided effective remedies through judicial, administrative and other measures.

6. Indigenous peoples/ethnic groups and individuals shall be independent and equal to other citizens, and they shall not be discriminated against while using and practicing their rights, especially the rights based on their origin and identity of the indigenous/nationalities. They are entitled to the right to appropriate remedy against any kind of discrimination.
7. All the rights including the right to self determination shall be equally implemented to indigenous men and women. Indigenous ethnic women shall have special right to equality and development. The State shall adopt different measures for effective remedy if there are any cases of discriminations against and violations of the human rights of indigenous women, elderly citizens, youth, and children, the third gender and differently-able people. The indigenous ethnic women shall have the right to participate in each level of the government on the basis of proportional representation with the recognition of their identity.
8. A special provision shall be made in the new constitution for those who are on the verge of disappearance, marginalized and highly marginalized groups within the indigenous peoples.
9. The state of Nepal should guarantee indigenous people's inherent right to self determination in the constitution and make provision for its practice. In addition, it also ensures their rights to participate effectively in the political, economic, social and cultural spheres of the state through their representatives elected freely according to process set by them.
10. (A) Nepal shall be multi-national, multi-ethnic, multi-lingual, multi-cultural, multi-religious and a secular state. And, country shall be a Federal Democratic Republican state.

(B) The state shall give recognition to indigenous people's right to determine political system independently, and to adopt policies for

economic, social and cultural development, and have ownership and effective control over their traditional land, resources and the areas they inhabit. This also includes the right to prior informed independent consent in each level of the government, which affects the rights, life style, the areas of (their) inhabitation and the interests of the indigenous nationalities. The indigenous nationalities shall have the right to be rehabilitated (in a new way) in their traditional land, homelands, religious lands which were seized in the past.

(C) The state shall protect indigenous people's right to maintain, develop and preserve their political, economic and social system, and the right to livelihood and unhindered access to, and the use and control over means of development, as well as the right to be involved in their traditional and economic activities independently.

(D) In addition to the rights mentioned in (A), (B) and (C) above, the indigenous peoples shall have the right to participate at all levels of the central and local level legislatures on the basis of proportional representation through their independently elected representatives from their representative institutions and the practices set by them.

Constitutional Bodies:

1. (A) An Independent and Representative Indigenous Constitutional Commission of the indigenous nationalities shall be formed while maintaining the existence of National Foundation for the Development of Indigenous Nationalities. The Commission shall have the authority to protect and promote indigenous people's fundamental rights and basic freedom, and to monitor and take action effectively when human rights are violated. The works of the Commission shall be independent, transparent and fair. And the Government shall leave no stone unturned to strengthen it.

Regarding the security policy of the government:

The security plan recently introduced by the government has created an atmosphere to undermine, threaten and suppress the indigenous voices raised in a peaceful manner and the movement of the indigenous people's political organizations and ethnic institutions. This has not only seriously violated national laws and international laws to which Nepal has made its commitment, but has also clearly pushed the country towards a serious conflict. Hence, it should be revoked immediately.

Since that the aforesaid thematic committee of the indigenous people has not been formed and appropriate mechanism not made in the Constituent Assembly (yet) we will be compelled to start a strong agitation if they are not formed without any further delay.

The concept papers produced by the thematic committees of the CA have not mentioned indigenous people's right to self determination and other fundamental rights, which (have created a situation) suggests that their rights would not be guaranteed in the new Constitution. This development has agitated and made us serious. It has also created a situation which does not guarantee our rights in the new constitution, and seriously violates human rights, while giving continuation to exclusions, discriminations and injustices from the past. We have not been given the opportunity to raise our voice in a peaceful and legitimate way. Thus, we would like to declare that if the constitution is promulgated without incorporating our rights we will not own it. Moreover, we will be compelled to start a widespread agitation. The state and the government will have to take responsibility for the ensuing circumstances.

| Name: | Designation | Political Party/Nationalists Organizations | Signature |
|---------------------------|--------------------|--|------------------|
| 1. Laxman Tharu | Chairman | Federal Democratic national Forum The Tharuhat Autonomous State Council | |
| 2. Sanju Hang Palungwa | Chariman | Federal Limbuwan State Council | |
| 3. D.B. AAngbung | Secretary (S.B.) | Forum Affiliated to Federal Limbuwan State Council | |
| 4. Dr. Keshav Man Shakya | Chairman | Nepa National Party | |
| 5. D.K. Buddhist | Chairman | Tamangsaling Autonomous State Council | |
| 6. Tek Bahadur Tamang | Secretary General | Tamangsaling Nepal National Party | |
| 7. Pratap Singh Natchring | Member | National janamukti Party | |

From the Nationalists Organisations:

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|----------------------------|---------------------|---|
| 1. Diwas Rai | Secretary | Kirat Rai Yayokhkha |
| 2. Yama C. Chemjong | Member | Kirat Yahthung Chumlung |
| 3. Sabitri Rana | Member | Nepal Magar Sangh |
| 4. Kumar Blon | Secretary | Nepal Tamang Dhedung |
| 5. Naresh Tamrakar | Chairman | Newa Dey Dabu |
| 6. Dhan Man Gurung | Secretary (P.) | Tamu Hyul Chhonj Dhi Gurung National Council |
| 7. Ful Mati Chaudhari | Central Exc. Member | The Tharu Kalyan Karini Sabha |
| 8. Jagat Baram | Secretary | Nepal Baram Sangh |
| 9. Binod Hyolmo | Representative | Nepal Hyolmo Society Welfare Organization |
| 10. | | Nepal Chepang Organization |
| 11. Meen Ghale | Secretary | Lil Fang |
| 12. Ram Awatar Mandal | Member | Nahamin |
| 13. | | Indigenous Students Society |
| 14. Lokendra Jero Kirati | Secretary general | Indigenous Kirat Federation |
| 15. Shyam Maya Pun | Chair | Nepal Magar Women's Organization, Central Committee |
| 16. Yasho Kanti Bhattachan | C. Member | Thakali Sewa Samiti |

Nepal Federation of Indigenous Nationalities

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| 1. Kiran Mukhiya | Chair | Nepal Federation of Indigenous Nationalities, Ilam District Committee |
| 2. Prem Ghising | Chair | Nepal Federation of Indigenous Nationalities, Jhapa District Committee |
| 3. Dev raj Chaudhari | Chair | Nepal Federation of Indigenous Nationalities, Morang District Committee |

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|--------------------------|-------|---|
| 4. Ek Bahadur Tamu | Chair | Nepal Federation of Indigenous Nationalities, Gorkha District Committee |
| 5. Laxman Tulachan Tarun | Chair | Nepal Federation of Indigenous Nationalities, Kailali District Committee |
| 6. Kanchha Ram Tamang | Chair | Nepal Federation of Indigenous Nationalities, Kavre District Committee |

Indigenous Scholars:

Dr. Krishna Bhattachan

Mr. Sanjaya Sherchan

Mr. Nand Kandangwa

Ms. Bam Kumari Budha Magar

Mr. Dambar Tembe

Mr. Sangina Rana Magar

On behalf of convening organizations

1. Nepal Federation of Indigenous Nationalities
2. Nepal Federation of Indigenous Nationalities Women
3. NGO Federation of Nepalese Indigenous Nationalities
4. Lawyers' Association for Human Rights of Indigenous Peoples