

2010

FEDERALISM DIALOGUES

PROPOSED KIRANT PROVINCE
(30 March-1 April 2010)

Report

The Federalism Dialogue was conducted in the capital of Kirant province-Udaypur- as proposed by the CA State Restructuring Committee report.



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1. OVERVIEW OF THE PROPOSED KIRANT PROVINCE FEDERALISM DIALOGUE

(This Overview was written by Professor Krishna Khanal)

The UNDP/SPCBN Project introduced their '*Sanghiya Sambad*' (Federalism Dialogue) 30 March-1 April 2010 in Triyuga Municipality, the proposed capital of Kirat province. This workshop is of immense importance in view of its timing and contents, given the serious discussion going on nationally on federalism. As one of the facilitators of the Federalism Dialogue, I observed the following important aspects of the dialogue, discussion and logistics. The three-day workshop was well-planned in terms of presentations and participation. The Dialogue had two major components - presentations on aspects of federalism and group work on provincial-level issues by the participants.

- The Professors K. Hachhethu and Krishna Khanal presentations covered the basic principles of federalism to the structure and division of power in a federal Nepal, as proposed by the CA Committee on State Restructuring and Distribution of Power (CSRDP). This was followed by intensive discussion which took the first day and a half of the Federalism Dialogue.
- The second half of the Dialogue was devoted to the participants' group work, presentations and discussions. Presentations served only as introductory briefings on the subjects with the CSRDP report.
- The group work included reviewing both aspects of Nepal's federalism with reference to the specific content of the CSRDP reports, as well as Kirat province related specific issues. The group exercise was found to be very useful to engage the participants in mutual consultations and reach acceptable local compromises.
- Unlike Ilam in the proposed Limbuwan Province, the Udayapur Dialogue was less organized in terms of the number of participants and logistics. In the beginning, fewer participants showed up although at the end of the first day and during the morning of the second day, many more people poured in outnumbering the estimated total which naturally affected the management. The late-comers complained particularly about the unavailability of the official bags, folders and reference materials.
- The Udayapur location, even though identified as the potential provincial capital of a future Kirat Province, had serious accommodation problems. The experts and some UNDP staff had to shift to Lahan, Siraha (30 minutes away) for better accommodation. Some participants complained that we were '*privileged*'.
- A number of the KYR participants based in Kathmandu went to Udayapur thinking the program was only for Rais (*Kirati*). In the beginning this created some confusion because the KRY people (*who came from Kathmandu*) had the impression that it was their event and they were there primarily to make speeches.
- Likewise, some participants even suspected that the program was intended to endorse the Kirat province, as proposed by the CA State Restructuring Committee.
- The facilitators tried to correct such misgivings at the start and later on it was found that the participants were very satisfied with the more inclusive and participatory nature of the program.
- In the future, there will be no need to have central leaders from partner organizations in future Federalism Dialogues. The best participants are ones who are based locally in the nearby districts. Therefore, the objectives and contents of the Federalism Dialogue, as well as the composition of participants should be well publicized to everyone in advance.
- To improve the level of the participants' knowledge, some of the CA Committee report contents, esp. pages I-XXVII and XCIV-XCVII, should be circulated beforehand in the future.

I have a feeling that both Ilam and Udayapur Dialogues have made some specific contributions which could be quite relevant to the CA members, particularly those of State Restructuring Committee and Constitutional Committee. They are as follow:

1. As evident from the group work, there is enough scope for the ethnic name to be reconciled by the people of the proposed provinces if there are adequate democratic provisions that assure the non-native communities of their fair treatment. The “Limbuwan” name was widely accepted in the Ilam Federalism Dialogue. In Udayapur, the Kirat name was initially vociferously contested by other communities. However, after a day of group exercises, there was again almost complete consensus on the name “Kirat” for the province.
2. Both Dialogues revealed the fact that the people (*including local party leaders and activists*) have little knowledge of the actual content of the CA State Restructuring Committee proposals. Except for one participant (*in Udayapur*), none of them had ever seen or read the actual text (much less a summary) of the Committee report.
3. Therefore, there is a great need for correctly informing the people (*at least the local party leader, ethnic activists, Dalits and other stakeholders*) about the CA Committee reports and their recommendations for constitutional provisions. The media’s reporting is extremely inadequate and, in some cases, full of disinformation, as well.
4. Both Limbus and Rais appear to be flexible on the concept of ‘*agradhikar*’ (prime rights) if the ethnic name of their provinces is accepted. This could be a good point to exchange and build a locally acceptable compromise.
5. The 23 Autonomous Regions and Special Regions provision is very confusing among the participants. The ethnic communities (*e.g. Tharu, Tamang and Magar in Udayapur*) have their own interpretations, as briefed by their respective ethnic organizations, of these regions. In fact, the operational aspects of these regions as defined by the CSRDP are even difficult to comprehend for specialists like me.

2. MAJOR ISSUES

More concern over the nomenclature and territory of the province

The name of the province and territory it covers is the primary aspect of federalism. Kirant has its own history, geography which is interrelated with people living in the region. In this regard, the name Kirant as proposed by the state restructuring committee in CA in its report is appreciated while the proposed territory is found not to be satisfactory for people living in that region. They wanted to extend its territory to all parts eastern to the river Arun.

Kirant, as a name of the province, is a name for the civilization more than a ethnicity

Kirant is the name highly associated with the ethnicity, however, the participants in the workshop considered it as a civilization more than an ethnicity. Kirant is the civilization developed from the pre-historic era. There is evidence of ruling of the Kirant dynasty in Nepal. So, Kirant as a civilization includes all people in the territory of Kirant province.

Triyuga can not be the capital of the Kirant province

The capital of any province should be easily accessible to its people. In this regard, the Triyuga municipality of Udaypur district cannot be the capital of the Kirant province. The capital should be place which has capacity to hold all the major governance structure and be the means of communication center to all the people in the region. The new place should be explored and developed to make it the capital of the province.

Federalism should be based on Identity and Efficiency

Though the discussion was initiated with diverging opinions from the participants on nomenclature, territory, capital, autonomous region etc., with the information provided by the experts and giving them a chance to have dialogue within themselves, they came to the consensus that federalism should be

based on identity and efficiency. The federalism based on identity and efficiency should be able to manage diversity of Nepal making peace and development sustainable.

3. INTRODUCTION

A. Background:

Nepal is in the phase of transition. The historical transformation preexisted the unitary form of governance to the federal structure. This is highly significant. However, the fact, that the general people, as well as the people oriented in the ethnic movement, political movement and others are still not clear about federalism, its opportunities, challenges, functioning and implementation that people are making their voice out of confusions, that cannot be denied. In the mean time, the state restructuring committee in the Constituent Assembly has published the report suggesting a model of federal structure comprised of 14 provinces. So, it is essential to initiate discussion on federalism not only in the center but in the local level in given context as well. Realizing this need, the workshop was arranged as a part of series of federalism workshops to be held in different proposed provinces.

The primary objectives of the workshops are to share fact-based information, initiate local discussions and propose recommendations with district representatives, local political party cadre, civil society leaders, marginalized representatives and local government representatives concerning the following aspects of federalism:

- forms and structures by which federalism may be designed;
- proposed powers of provinces, autonomous regions and local governments;
- individual and collective minority rights, fiscal federalism, indigenous rights;
- relationships among central, provincial, autonomous regions and local governments;
- the recently CA State Restructuring- approved concept paper; and,
- practical problems and challenges while implementing the federal structure.

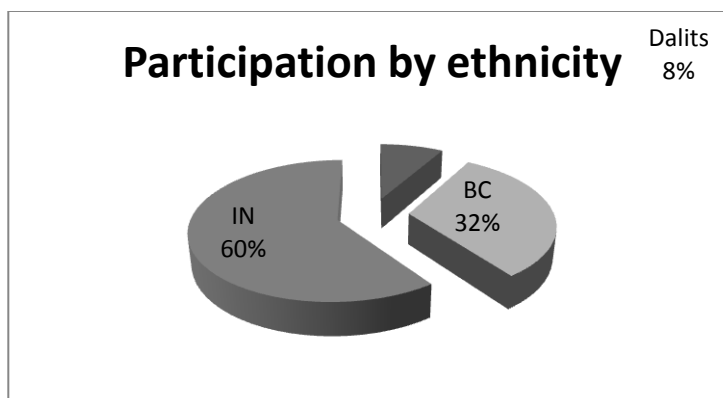
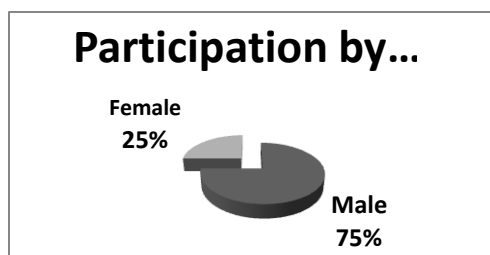
Kirant is a proposed province comprised of 237 VDCs of 7 districts namely; Bhojpur, Dhankuta, Khotang, Okhadhunga, Sankhuwasabha, Solukhumbu and Udaypur with a proposed capital as Triyuga Municipality of Udaypur district. (**Annex 1** provides the Program Agenda for the program.)

B. Venue and Date

The three day provincial workshop on federalism was organized in Triyuga Municipality, Gaighat, Udayapur; from 30th March – 1st April 2010. The workshop was held in the Seminar Hall of the District Development Committee, Udaypur. The workshop was residential to make people more engaged in interaction and discussion.

C. Participants

The representatives from various political parties, social organizations, human right organizations, indigenous and ethnic organizations, government offices participated in the program; 60 attended. Among the participants **8.3% were Dalits, 31.7% were Brahmin or Chhetris and 60% were from Indigenous** the community. **Female participants were 25% of the total participants.** (**The name list of the participants is provided in Annex II**)



4. DIALOGUE PROCEEDINGS

A. DAY I (March 26th 2010)

Day I, as planned, was devoted to exploring the general concept of federalism, its applicability in other countries and its journey in Nepal.

Introduction

The formal session of the first day started with comments of by Mr. Surendra Chaudhary, Grant Manager, CSO, SPCBN. He highlighted the objectives of the workshop and welcomed the participants. He said that *people are discussing federalism in various ways which need to be guided by certain advocacy, realizing the need to make people advocate for federalism, the workshop is targeted to explore the model, bases, challenges and opportunities of the federal structure.* He added that Professor Krishna Khanal and Professor Krishna Hacchethu, facilitators of the workshop are doing studies, analysis of various reports on federalism. After his comments Professor Khanal shared his experience that *people in Limbuwan region were found to be more aware about the advantages of being a federal state along with identification of obstacles. They were not satisfied with proposed territory of the Limbuwan Province and demanded to include 9 districts to be excluded.* So many issues related to federalism had come up from the workshop. He added that being academicians, they had studied the report of the Constituent Assembly Committee so that they provide information on the report as well as general concept of federalism and international practices to initiate discussion and expected the workshop to be fruitful to all. As a Chief Guest to the program, Mr. Mohan Nath Maskey, LDO, Udaypur, welcomed the participants and showed his appreciation to CCD for organizing the workshop on federalism, and that there was a great expectation to have a huge discussion in a platform of diversified people to make the program a success.

Expectation Collection

With the end of first session, the workshop continued with the introduction of the participants and collection of their expectations from the workshops. The participants showed their interest to be clear on the basic issues of federalism, its advantages and weaknesses as well as their concern for the success and failed practices of federalism in the world and the mechanisms to make federalism a good and sustainable practice in context of Nepal, particularly in the context of Kirant. The majority of the participants showed an interest in discussing the naming of the province, particularly of Kirant. (The expectation of participants are listed in **Annex II**)

Presentations from Facilitators

Journey to Federalism by Prof. Krishna Khanal

Professor Krishna Khanal discussed the journey to federalism clearing the concept of federalism with respect to various practices in different states in the world. He focused on factors to be taken into consideration while a unitary state moved to federal structure. He stated that internally that many identities exist in federalism. However, externally only one identity as a Nepali remains. He mentioned that many people have fear that the country would disintegrate but international practices show otherwise. When border of the province is identified under the constitution, it cannot expand its functioning beyond its jurisdiction. Kirant province must function within its territorial boundary. However, the center can function anywhere in the nation. There will be, at least, two sets of governance over an individual. Further, he stated federalism is a process of integration, making people rule together. Following his remarks, the participants asked questions which were responded to by Prof. Khanal

Question (Q). What is the meaning of federalism?

Answer (A): Federalism is the notion of holding together a nation which is marked by a wide range of internal diversity such as language, ethnicity, region, etc. It makes devolution of power to two separate but coordinated levels of government, including the local level. That government is near to the people to address their needs. Provinces are many but the international identity of the nation is single in federalism.

Q. To whom are Prime rights provided?

A. Prime rights are provided to the groups who have been marginalized for a long time but whose population density in the province is significant.

Q. What is the rationale for an autonomous region?

A. Autonomous regions are provided to 22 groups of minorities to provide them access to governance power, which they did not have before.

Commentary on Proposed Federalism in the reports of state restructuring committee by Prof. Hacchethu

Professor Hacchethu discussed the various aspects of federalism in relation to the report of the state restructuring committee of the Constituent Assembly. He stated before publication of the report of state restructuring committee, there was only the assumption for territory of the Kirant province while the report came out as defining the territory of the province under which the Kirant province includes VDCs of 6 districts. He shared no province can be homogenous so there is provision of autonomous region for minorities. The committee has taken reference of ethno geography within human geography to name the province while potentialities and efficiencies of the place are considered for selection of a provincial capital.

The participants raised questions that they were not satisfied with territory division in the report and it seems that the professor was justifying the content of the report. However, Prof. Hacchethu replied that they were just the facilitators providing actual information of the report to make people discuss more on the contents of the report to initiate informed debate among people at the local level, as well.

Q. Did the proposed 14 provinces come out of political discourse only or were the experts involved in the process.

A. Even we were invited many times to the state restructuring committee but the report is not all about experts' suggestions, many factors play a role in it.

Forms of Federal Structures at Provincial Level by Prof. Hacchethu

Professor Krishna Hacchethu presented a paper on forms of federal structure at provincial level. He discussed the tiers of government being central, provincial and local. He stated that the report of the state restructuring committee suggested a sharing rule from the centre, self rule for province and local government. He gave a

glimpse of the report that suggested proportional participation from every province at the central government on the basis of population and representation from social groups. Further he added some points that should be taken into consideration, such as: guarantee of minorities' rights in provinces, sub provinces for big provinces, determination of election constituencies in provinces on the basis of castes, special rights, autonomous regions etc. The participants raised questions which were addressed by Prof. Hachhethu.

Q. How are prime rights given?

A. Prime rights are granted to particular castes for particular tenure as a form of historical compensation.

Q. What happens if the minorities' within the province demand a separate state when provinces are named under particular ethnicity?

A. The minorities in the provinces should be provided with special rights, reservation to promote and enhance their situation.

B. DAY II (31st March 2010)

Day II discussed some particular issues of federalism such as rights of different tiers of government, fiscal federalism and to explore facts on various issues of federalism by group exercises.

Presentation from Professors

Rights and Responsibilities of three tiers of proposed structure of governance by Prof. Khanal and Prof. Hachhethu

Professors Khanal and Hachhethu presented papers on three tiers of proposed structure of governance. They highlighted the contents of the report of the state restructuring committee and general overview on distribution of functions to various tiers of government in regard to practices of various countries. They provide that the report of state restructuring committee came up with a list of rights and responsibilities to the center, province and local level as to 30, 28, 20 and 20 for the autonomous regions as well as 27 rights and responsibilities under common lists. They gave examples of functions listed as a central list, provincial list and local list. The central list includes affairs related to defense, foreign relation, monetary and such major functions where as province has been entrusted to functions under provincial fundamental law. However the functions which are mostly related to lives of people in particular contexts have been enlisted under the local list such as primary education, basic health service, mediation, local taxation etc. However there is a special list for the autonomous regions as to include functions related to autonomous election council, mines etc. They stressed that provisions giving more power to the local level than the list developed from a "bottom up approach" will be significant.

Fiscal Federalism by Prof. Khanal

Professor Khanal discussed that in absence of fiscal federalism, political federalism is not enough. Until this moment, we are coping with political federalism as dealing with name and territory, but to deal with resources is a very important aspect of federalism, as well. Fiscal federalism, as a concept, deals with collection and distributions of revenues and resources in central, provincial and local level. He gave an overview of practices of fiscal federalism in the provincial governments in Switzerland, Belgium, Canada, Germany. These provincial governments spend less (30% to 40%) where as there are countries like Malaysia where the provincial government spends 84% of the total collected revenues. He added even in terms of collection of tax or revenue there exist no uniformity in federal countries. He provided the information regarding distribution of revenue collection in Nepal as per report of the state restructuring and natural resources committee that local government should collect local tax, royalty from natural resources and service charges, where as the provincial government to collect tax, royalties from major project within the region, inter provincial trade, income tax,

property tax etc. Whereas the central has to deal with monetary policies, central banking, customs, international trade, etc.

The participants raised questions of Prof. Khanal:

Q. Is fiscal federalism viable in its present condition of distribution of resources and revenues?

A. He stated that the infrastructure should be established first to manage fiscal federalism. The first priority is the political federalism, then proper economic planning, exploration of resources for revenue generation, etc. can make fiscal federalism viable.

Q. Management of federalism is not an easy task?

A. Definitely not easy. However, fiscal federalism is the large part of governance. Yet we have not explored resources at the local level. If certain principles are established for distribution of resources and implementation of federalism, federalism can be well managed.

Group Work: Exploring the facts about different facets of federalism in the context.

After some insights from the facilitators, the participants were divided into 5 groups to discuss and arrive at consensus on issues related to distribution of rights in center and province, distribution of rights in province and local, rights of minorities in provincial structure, local government/ autonomous region and service provision and interprovincial relationship. The participants discussed, debated and came in with comments for provisions to address their specific group assignments.

They entrusted more rights to the province than center which should minimize its role in federal structure and also make government more near to the people. There should be clear provision in the constitution to identify the rights and responsibilities of the centre and province to make province more self-governing. They highlighted importance proportional representation in both the local level and provincial level government to ensure inclusion of marginalized and minorities. The minorities, being deprived of access to governance power and other rights, should be promoted with special provisions provided to them guaranteeing their rights in the constitution and making them enforced. The groups focused on importance of inter- provincial relationship and suggested that interprovincial relations should be balanced and the center should be the ultimate means to resort settlement if any dispute arises between the provinces.

(The details of the group findings is in the Annex IV)

C. DAY III (1st April 2010)

Day III was devoted to discussing and exploring facts about federalism, particularly in the local context of the Kirant province.

Discussion on Kirant Province by Tej Narayan Singh Rai

The expert from the local area, Mr. Rai, provided a concept of the Kirant state. He talked about the history of the Kirant state, rationality behind naming the state or province as Kirant, Kirant as the state having existed from an early period dealt with the civilization in the region which cannot be ignored and Kirant itself is not the ethnicity so the land of Kirant belongs to every individual residing in the Kirant province under Kirant civilization. He highlighted that the demand of 16 districts to be included in the Kirant province is valid as the history marked a big territory of the Kirant province where different rulers ruled in the past. The participants added, reviewed and commented on his presentation. They discussed history, geography, language and peoples' lives in the Kirant province as factors to be taken into consideration for determination of provinces. However they all accepted that identity and potentialities/efficiencies are good factors to be taken by the state restructuring committee for

determination of the province though they are not satisfied with the proposed territory under the Kirant province.

Group Work: Facts about different facets of federalism in context of Kirant province

The participants were divided into 4 groups to identify the issues like historical, geographical background of Kirant province, political and administrative structure, Natural resources and probabilities of economic progress in context of Kirant and judicial system in relation to customary laws. All the people residing in Kirant province are Kiranti as Kiranti is not any particular caste rather it is a civilization. They showed dissatisfaction with proposed territory for Kirant province. However, they appreciated the factors like identity and potentialities/ efficiencies taken by the committee to identify the provinces. Further, they came with different hierarchical layers of political and administrative structures to make easy access to the people in local level with provision of council in every level and execution of mixed electoral system to make the structure inclusive. On other hand, they explored the natural resources within the Kirant province to show its economic efficiencies and suggested for optimum utilization of the explored natural resources to make the province economically sound. The group highlighted the importance of practice of customary law and to make justice easily accessible developed a concept of special court, benches and mobile courts. They suggested special courts to deal with issues of Dalits as special arrangements to deal with cases of children, women, marginalized and cases of community values and culture.

Closing

At the end of the 3 day workshop on federalism, professors, representatives from participants and observers from UNDP expressed their remarks. Professor Hachhethu stated naming of Kirant Province is itself initiation of discussion on federalism. Yet to be discussed a lot is to make federalism strong and sustainable. Further Professor Khanal added that the center of discussion was the report of the state restructuring committee. However, not many people had a chance to study the whole report which seemed to be misleading. He urged participants not to be more emotional for selection of provincial capital as it can be developed even in a new place. The issue is about making government nearer to the people than selection of a capital.

As the representatives from participants, Ambika Regmi and Chatur Bhakta Rai expressed their gratitude for organizing such a program. They urged the organizer to include more people from political parties so that in return the parties can mobilize their people to conduct such programs in different regions approaching many number of peoples. They added that the materials provided in the workshop were very useful yet many issues are not covered within the given time. They requested the organizer to make their suggestion/voices heard by the CA members

In closing, Mr. Surendra Chaudhary expressed vote of thanks to the participants, local organizers, supporters, professors, regional coordinator, UNDP, District Development Committee, Udayapur and its helping team for their contribution to make program success.

Then Mr. Keith Leslie adjourned the 3 days workshop on federalism with his remarks that the people from Nepal are responsible to make a nation which includes all diversity and dialogues is the best tool to accomplish the deeds.

5. Evaluation Summary

The total 38 participants filled out the evaluation forms provided. Most of the participants appreciated the efforts of organizer for arranging such dialogues so that people from diverse groups could get chance to interact about various issues of federalism in one platform. 58 percent of the participants found the workshop to be

useful. The details of evaluation by participants by content matter of workshop, facilitation, selection of participants and management is illustrated in the given chart

Workshop subject matters and content		
Not useful	Useful	Good
	16	22
Presentation/facilitation		
Unsatisfactory	Satisfactory	Good
	16	22
Selection of participants		
Not useful	Useful	Good
9	24	5
Management		
Unsatisfactory	Satisfactory	Good
9	24	5
Need for continuation of workshop¹		
Yes	No	
37		

¹One participant did not respond to the question

6. Recommendations

The participants from the workshop in Udaypur have recommended the following:

- conduct such workshops in other places as soon as possible
- continuing the workshops even after finalization of structure of provinces by CA
- increase time from 3 days to more days
- making participation more productive with careful selection of participants
- that the program be made more interactive, more discussion oriented with more focus on specific issues
- including media and other stakeholders, especially from local areas to make the program more successful.

ANNEX I

Program Agenda

FEDERALISM DIALOGUES (“SANGHIYATA SAMBAD”) WORKSHOPS CIVIL SOCIETY LEADERS and LOCAL GOVERNMENT OFFICIALS

DAY ONE:

- 08:30 – 09:00 Registration
- 09:00 – 09:30 Opening
- 09:30 – 11:00 Federalism, an Introduction to Nepal’s Federal Future
By Professor Krishna Khanal, T.U .
- 11:00 – 11:30 Tea Break/Informal Discussions
- 11:30 – 13: 00 Commentary on Proposed Federalism in the reports of state restructuring committee by Prof.
Krishna Hacchethu
- 13:00 – 14:00 Lunch
- 14:00 - 15:00 Federal Structures at the Provincial Level by
Professor Krishna Hachhethu, T.U.
- 15:00 – 15:15 Tea Break
- 15:15 – 16:00 Federalism, Nation Building and Minority Rights by
Professor Krishna Khanal, T.U
- 16:00 -17:30 Group discussion
- 17:30 – 18:00 Adjourn Day 1

DAY TWO:

- 08:00 – 09:00 Breakfast
- 09:00 – 09:45 Rights and Responsibilities of three tiers of proposed structure of governance by Prof. Krishna
Khanal and Prof. Krishna Hachhethu
- 09-45 – 10.30 Discussion
- 10:30 – 10:45 Tea break

10:45 – 11:30 Fiscal Federalism: Forms and Authorities
Professor Krishna Hachhethu

11.30 – 12.1 Discussion

12:15-12:30 Break into small groups for detailed discussion.

12:30 – 13:30 Lunch

13:30 – 15:00 Group work

15:00 – 15:30 Tea break

15:30 – 17:00 Presentation by each group followed by floor discussion

DAY THREE:

08:00 – 09:00 Breakfast

09:00 – 10:00 Contextual Analysis of Specific Federal State Issues Local Resource Person

10.00 – 10.45 Discussion

10.45 – 11:15 Tea Break

11:15 – 12:45 Small Group Discussions on Critical Local Provincial Issue

- History and Geography
- Political and administrative structure
- Natural Resources and Economic probabilities
- Judicial system and customary law

12:45 – 13:45 Lunch

13.45 – 15:30 Small Group Presentations and Discussion

15:30 – 16:30 Planning for the Future: *Next Steps*

16:30-17:30 Plenary discussion with Professor Krishna Khanal and Professor Krishna Hachhethu

17:30 Closing Remarks

UNDP SPCBN Representative
Representatives from Workshop

ANNEX II

LIST OF PARTICIPANTS

S. No.	Name	Gender	Ethnicity	Organisation/District	Contact
1	Mani Raj Rai	M	IN	Okhaldhunga	9841535837
2	Hari Rai	M	IN	Bhojpur	9841878642
3	Dil Kumari Rai	M	IN	Khotang	9842877191
4	Dev Raj Rai	M	IN	Khotang	9851003153
5	Shyam Kumar Paudel	M	BC	Udayapur	9743018443
6	Ambika Regmi	F	BC	Udayapur	9743003533
7	Tej Narayan Singh Rai	M	IN	Dhankuta	9842046942
8	Bishan Khaling (Rai)	M	IN	solukhumbu	9851082002
9	Mohan Gole	M	IN	Udayapur	9842837330
10	Chatur Bhakta Rai	M	IN	Khotang\ kathamandu	9841559230
11	Prem Rana Magar	M	IN	Udayapur	
12	Chuna Thapa (Chhetri)	F	BC	Udayapur	9807701840
13	Pradeep Chaudhary	M	IN	Udayapur	9842845347
14	Arjun Jarneli Rai	M	IN	Khotang	9842046908
15	Khadka Pariyar	M	Dalit	Udayapur	9743003408
16	Charcha Bdr B.K.	M	Dalit	Khotang	9743027255
17	Srijana Danuwar	F	IN	Udayapur	9753003519
18	Chandeshwor Shrestha	M	IN	Udayapur	9852856700
19	Sundari Khatiwada	F	BC	Sankhuwasava	9742010360
20	Gajurdhan Rai	M	IN	Okhaldhunga	9851001731
21	Mahesh Kormocha	M	IN	Okhaldhunga	9741085670
22	Bharat Khadka	M	BC	Udayapur	9743025525
23	Raj Kumar Chaudhary	M	IN	Udayapur	9842827848
24	Kushal Babu Basnet	M	BC	Udayapur	9743003430
25	Himal Khadka	M	BC	Udayapur	9842865690
26	Shubharan Chaudhary	F	IN	Udayapur	9842827848
27	Ichhu Ram Rana	M	IN	Khotang	9743008748
28	Baldev Chaudhary	M	IN	Udayapur	9852820190
29	Bimala Thapa	F	BC	Udayapur	9753004301
30	Binda Magrati	F	Dalit	Muktisamaj	9842211824
31	Rishi kesahb Chapagain	M	BC	CPNUML	9752006190

32	Mohannath Maskey	M	IN	DDC Udayapur	9852820198
33	Uttim Chaudhary	M	IN	NP-Nepal	9842854517
34	Purna Bdr Rai	M	IN	Kry, Udayapur	9842837839
35	Manoj Kumar Rana	M	IN	Udayapur	9842837996
36	Sita Paudel	F	BC	Dad, Udayapur	9842838475
37	Siba Pd Subedi	M	BC	RDP	
38	Sapur Bdr Nepali	M	Dalit	NC, Udayapur	9842826627
39	DB Lama	M	IN	UN	
40	Samit Duwadi	M	BC	REDP,Udayapur	035-420957
41	Rupa Siwa	F	Dalit	UFJO	9743003408
42	Janaklal Lekhi	M	IN	Udayapur	9743004105
43	Rajendra Parajuli	M	BC	Udayapur	9842863363
44	Kriparam Chaudhary	M	IN	CLRC, Udayapur	9852830732
45	Prabina Rai	F	IN	Udayapur	9743027257
46	Nabin Rai	M	IN	F.M Amurta	9753003956
47	Prem Kumar Khatri	M	BC	NC, Udayapur	9842830535
48	Samita Rai	F	IN	Khotang	9842871278
49	Janu Danuwar	F	IN	Udayapur	9842828026
50	Kesari Lama	F	IN	Udayapur	035-690365
51	Najbul Khan Nilam	F	Muslim	Udayapur	9852831084
52	Mausam Rai	F	IN	KRY,Udayapur	9842826740
53	Nagendra Rai	M	IN	KRJA	9842668888
54	Tulasi Pd. Koirala	M	BC	LPC	9743004171
55	Bam Bdr Baniya	M	BC	KRY, Khotang	9741146177
56	Gyanendra Bdr Rai	M	IN	ULC	9753003402
57	Ramesh Paudel	M	BC	HDF Khotang	9841325799
58	Bimal Karki	M	BC	CPNUML,Udp.	9753003502
59	Biswajit Rai	M	IN	DDC Udayapur	9852831550
60	Dilip Niraula	M	BC	Udayapur	

Participants from UNDP

1. Keith Leslie
2. Surendra Chaudhary
3. Rakesh Jha
4. Mom Bishwokarma
5. Aruna Joshi

Resource Persons

1. Prof. Krishna Khanal
2. Prof. Krishna Hacchet

ANNEX III

Expectations of participants

After formal inaugural session, the participants were provided with meta cards to write their expectation from the workshop. The expectations from the participants were all most similar that they expected to be clear on issue of federalism so that they can make other people aware about it. The participants expected to be clear on following matters in the 3 days Workshop:

- Concept of federalism and its context
- Basis of proposed province
- Minorities' rights in federalism
- Interrelation between provinces
- Economic progress from federalism
- Federalism in international context
- How the journeys of federalism reach in this stage?
- Viability of federal structure on the ground of ethnicity
- Rationality of proposed 14 provinces
- Advantages and disadvantages of federalism
- Make pressure group to sort out conflicting issues
- Identify the bases to make Udaypur in Magarat province as huge population of Magars live in Udaypur
- Assurance mechanism to identify the rights of marginalized people
- Federalism in context of Kirant province and Kirant

ANNEX IV

Group Work Outcome

Group Exercise 1: Exploring the facts about different facets of federalism in context of Nepal

GROUP 1: Distribution of power between centre and province

The group came with list of functions to be entrusted to the centre and province to make federalism more viable: They listed as:

The centre should deal with following issues:

- Security and Defense
- Foreign affairs and relations
- Monetary policy (Central Bank)
- Big industries
- Central university
- Constitutional commissions
- International trade
- Provincial relations
- Federal highways
- Taxation

Whereas the province should deal with following issues:

- Water, Forest, Herbs, Minerals, natural resources
- Taxation
- Tourism, agriculture, health, education
- Transport (land, water, air)
- Industry (small and medium)
- Citizenship/ passport
- Peace security
- Court (up to lower level)
- Special rights on the basis of caste, ethnicity, language, religion, culture etc.
- Provincial commissions
- Social securities
- Political prime rights to marginalized and minorities
- Referendum if difference in provincial voting

GROUP 2: Distribution of power between province and local

The group came with lists of functions to be utilized by the province and the local level which are as follows:

The local government should be provided with following responsibilities:

- Local government act under local governance act
- Determination of wards, municipalities, VDC on the basis of geography, populations, access to services etc.
- Wholesome grant to be provide from province to local government
- One court in every VDC and municipality
- Foreign grant utilization in local level in a direct manner
- Citizenships and passports to be provided by the local government

- Local government should get major portion of royalty collection if any project is done in that area/ region
- Mixed electoral system

The provincial government should be given of following responsibilities:

- Activities under provincial law
- Commission on Investigation of Abuse of Authority
- Police administration, peace and security
- Collection of some tax of major project by the province
- Value Added tax
- Provincial level Account monitoring office

GROUP 3: Minorities rights in provincial structure

Dealing with the rights of minorities in context of federalism, the group came with identification of political, economic, social, cultural, linguistic and other rights to be provide to the minorities which can be listed as following:

- a. Political Rights:
 - Proportional representation of minorities, on the basis of caste and presence in that area, in every level of provincial government
 - If no proportional representation can be done of any minor population, then at least 2 seats should be provided to them, which should be promoted from local government to the central government level
- b. Economic rights:
 - Establishing the rights of minorities over natural resources, water, land, forest, minerals etc
 - Distribution of benefits from local/ national natural resources to the minorities on the basis of their Human Development Index
 - Programs should be launched to empower minorities; various trainings
 - Arrangement for domestic and foreign employments
- c. Linguistic/ cultural/ social/educational rights:
 - Constitutional protection of language, religion, culture of minorities
 - Free education up to high school
- d. Other rights:
 - Free treatment of health
 - Fixed quotas for public service under public service commission
 - Special rights for some period
 - Representation of poor, disabled and other minorities in every sphere of governance

GROUP 4: Local government/ autonomous region and service provision

The group firstly acknowledged the list of functions to be exercised by the local government in the report of state restructuring committee and added the following provisions to make it more near to the people and effective implementation of federal structure in local level:

- There should be elected autonomous council in local government
- Full rights for mining and its management
- Prime rights over language, culture and religion and right to self determination
- Rights of aboriginal and indigenous people over natural resources and their use should be given priority
- Provision of mediation center to solve minor conflicts in local level

- Community/ city police
- Prime rights to aboriginal and indigenous in governance of autonomous region, administration
- Proportional representation in every sphere of governance
- citizenship
- All other rights listed under local government in the report of the state restructuring committee

GROUP 5: Interprovincial relations:

The group identified the possible areas of conflict between two or more provinces and suggested the following ways to address such conflicts:

- If there occurred any conflict in relation to natural resources or water resources in border area, then that should be solved out of common agreement between two provinces if not approaching to the supreme court
- Arrangement of extradition law between provinces
- Conflict in border addressed by the provinces in presence of central government
- Fixation of import, export and taxation in consultation with provinces
- Development of physical infrastructure in consensus
- Manage proper balance in environment
- Continuation of trade relations
- Development of inter provincial tourism
- Equal treatment to all caste, ethnicity, culture and religions

Group Exercise 2: Exploring the facts about different facets of federalism in context of Kirant Province

GROUP 1: History and Geography in context of Kirat province:

The group identified the history and geography of the Kirant province so that be the ground for territorial distinction of the Kirant province. They focused on history of Kirant as preexisted and in the form of civilization rather any particular ethnicity. They discussed on following issues:

History:

- The word 'Kirateshwor' came with *Rigveda*, ancient holy book
- There were Kirant rulers before unification of Nepal
- There was Kirant calendar
- There were different administrative units like Upper Kirant, mid Kirant and lower Kirant
- *Tuwachung* hill is the place of Kirant civilization
- The palace used by Kirant rulers still existed
- From the very early time Tharus started living here
- The religious and cultural history showed there existed many castes from the very early period like Rai, Magar, Limbu, Gurung, Chhetri, Brahmin, Majhi, Kumal, Tharu, Danuwar, Bhote, Thami, Bote, Kusule, newar, Damai, Karmi, Sarki, Tamang, Dhimal, Rajbanshi, Hayu etc.

Geography:

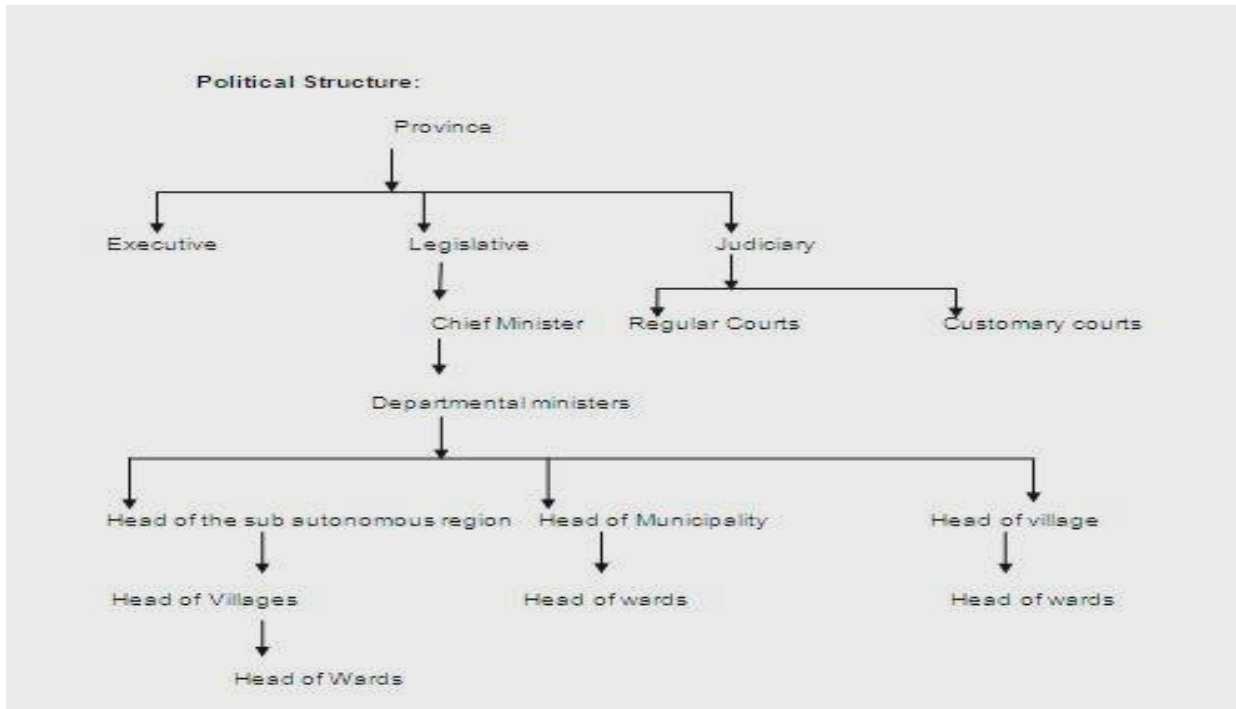
- Considering the geography present 16 districts from Mechi, Koshi and Sagarmatha zones should be made a Kirant province
- The autonomous region should be made on the ground of density of population in that place

All the people residing in Kirant province are Kiranti as Kiranti is not any particular caste rather it is a civilization.

GROUP 2: Political and administrative structure in context of Kirant:

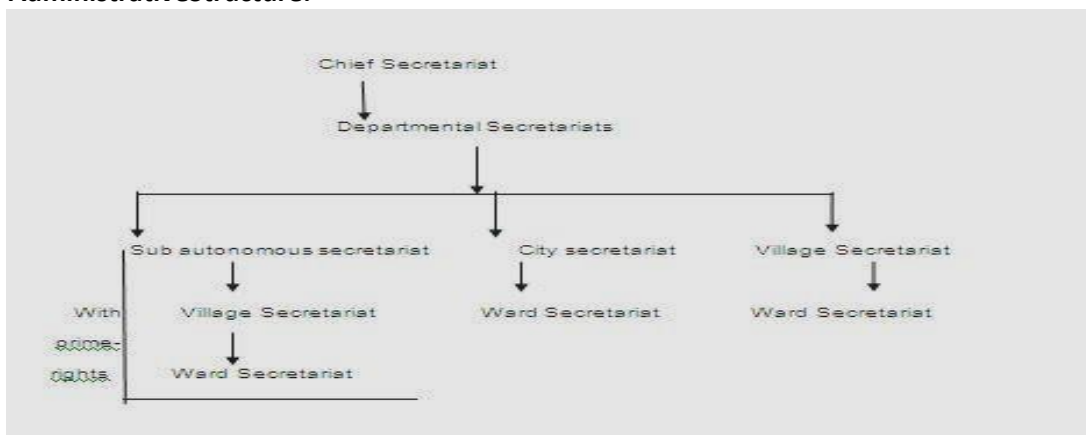
The group came out with outlining of the political and administrative structure which they wanted to have in Kirant province. They believed that only in presence of such structure, federalism can sustain and address all the aspirations of people in the Kirant province. The structure they presented are as follows:

Political Structure:



- # One/ one council shall be there in sub autonomous region, municipalities, villages and wards
- # Mixed electoral system for provincial election
- # Management of Municipalities and villages on the ground of geography, population etc.

Administrative Structure:



All administrative structures shall be based on this structure like Police, armies etc.

GROUP 3: Natural Resources and Economic probabilities in context of proposed Kirant province:

The group enlisted the natural resources and probable economic benefits out of them within the proposed Kirant province. They enlisted many natural resources and probable outcome from proper utilization of them which can be listed as:

- A. Rivers:

Sunkoshi, Dudhkoshi, Tamor, Aruna and other subsidiary rivers (rawa, Sapsu, sa khola, Tapkhola, Triyuga, Tawa, Kakaru, Baijnath, rasuwa and others)

Probabilities: Energy, irrigation, transportation

B. Minerals:

Limestones, Rocks, pebbles, sand, copper, petroleum, glass, iron

C. Forest products:

Sakhuwa, Khayar, Sallo, Herbs, Rhodedendron (27 types), *Gauriban*

D. Agriculture:

Tea, *Tejpat*, Lemon, Orange, Apple, animal farming, Cardamom, turmeric, *chiraito, lokta* etc.

E. Tourism:

Halesi, Tyamke, Baraha pokhari, Rupakot, Tankela Cave, Pattale Tuwachung, jayjung, Rauta pokhari, Chaudandi gadhi, Sakewa- musuri, Koshi tappu Wildlife reserve, Salpa, Silichung Bhayung, Chilimdhunga, Demba Takura, many sort of water falls, rock climbing, bungy jumpings, caves

F. Transport:

Gaighat – Khotang- Katari- Okhaldhunga, Khotang- Chatara- Bhojpur, Bhojpur- Dhankuta, Khotang- Bhojpur, Dhankuta-Sankhuwasabha

GROUP 4: Judicial system and customary law in context of proposed Kirant Province

The group highlighted the importance of practice of customary law and to make justice easily accessible developed a concept of special court, benches and mobile courts. The structure of judiciary to be viable for Kirant province as stated by the participants is as follows:

- a. Local court (village/ municipality/ metropolitan city) as mobile courts
- b. Provincial court
- c. Constitutional courts

The courts are under provincial courts.

Jurisdiction:

- Local courts : general cases
- Provincial court: Appeal of general cases from local courts and other extraordinary cases like writs
- Special arrangements in both the local and provincial court to deal with cases of children, women, family- matters, cases related to communities' value, culture etc.

Appointment: There shall be an independent agency of the experts in law to recommend the judges for provincial judiciary to the provincial legislature and they be recruited after parliamentary hearing. For the local courts, judges shall be appointed by chief justice of the province where as for the provincial court, judges to be appointed by the chief minister of the province.

Qualification: The qualification will be determined by the provincial parliament.

Dismissal: The chief justice can be removed from his/her position by 2/3rd majority in provincial parliament and other judges can be removed by council of ministers on recommendation from the independent agency of the experts in law.

#Arrangement of special courts to deal issues related to dalits

ANNEX V

Questions and Answers:

The participants put many questions and queries to the resource persons which were addressed by the resource persons. The brief of question and answers are as follows:

Q. What is the meaning of federalism?

A. Federalism is the notion of holding together a nation which is marked by wide range of internal diversity such as language, ethnicity, region, etc. It makes devolution of power to two separate but coordinated levels of government, including the local level that government be near to the people to address their needs. Provinces are many but the international identity of the nation is single in federalism.

Q. Whether internal democracy is given value in federal structure or not?

A. The ruling system and formation of governance is driven by democratic values in all level of government.

Q. What if provincial capital is selected by referendum?

A. The report of the state restructuring committee has designated the capitals but not about the national capital. There is scope of suggestions to be made

Q. It seems like workshop is to advocate the reports of the state restructuring commission. Why so?

A. Definitely not. We are here to provide right information about the concept of federalism as well as the contents of reports of state restructuring committee as media and parties have interpreted the content of report as per their needs which are not giving actual scenario of the report to the general people.

Q. How will federalism address the issues of identification of Dalits and other ethnicities?

A. The naming of provinces are based upon identification of the people i.e. ethnicities and also it has provided prime rights, reservation to minorities and Dalits. There should be bargaining in terms of inclusion and guarantee of rights of all. However, Dalits have better chance to bargain particularly in such provinces where they make a sizeable population such as in Khaptad and Madhes-Koch... provinces.

Q. How do you perceive other provinces in terms of identity of people?

A. The nomenclature of the provinces is mostly in terms of ethnic identity.

Q. What is the rationality of selection of provincial capital?

A. The provincial capital has been selected on the ground of efficiencies and capacities on the basis of report of state restructuring committee.

Q. What is the ground for declaration of autonomous region?

A. Autonomous regions are granted to the population who are minorities and marginalized as well as in peril of extinction. The report has provided 22 autonomous regions.

Q. How to address issues of disabled in federalism?

A. Federalism automatically does not solve every problem. The stakeholders have to make voice and bargain to ensure their rights. The issue of people with disability needs more attention under the policy of positive discrimination than federalism.

Q. What happen if minorities in the province demand for separate state?

A. There is no right to secession under federalism; it is a concept of holding together. But the creation or reorganization of provinces within federation can be done through the amendment to the constitution

Q. Can prime rights solve the problems of conflict between various ethnicities?

A. Prime right is given as historical compensation for certain tenure however it has to be described and elaborated more. Since the provinces are proposed on the basis of ethnic population and the name is given on an ethnic line the provision for political Agradhikar has little relevance. Agardhikar provision should not be the part of the main text of the constitution it undermines the principle of democratic election. It may be the part of the Directive principles. The reports' description is not enough to deal with prime rights.

Q. How federalism is economically viable?

A. First, the question of federalism is about political federalism, and then when political federalism is established, fiscal federalism is about exploration of probabilities from resources available and equalization of unequal provinces, proper redistribution of resources.

Q. Why do you consider that political decision of formulation of commission for state restructuring came lately?

A. The provision of the state restructuring commission had been already incorporated in the interim constitution, if formulated would have done lots of work. However at the moment, if it is formulated under political decision it loses its credibility rather it should be formulated by Constituent Assembly.

Q. What will be the condition of minorities whose population is not yet known?

A. There are 22 autonomous regions.

Q. The reservation, quotas are cheating words. What can be other alternatives?

A. There is provision of reservation or positive discrimination however the stakeholders need to bargain for its assurance.

Q. What is the mechanism to address discrimination especially to Dalits in private and public sphere?

A. The law has penalized discrimination in public sphere however there should be no intention even to discriminate in private sectors.

ANNEX VI

Evaluation, Recommendations and Future plans from participants

The participants were provided with the forms to evaluate the workshop as whether the workshop met their expectations or not. They came up with suggestions and future plans which are as follows:

Suggestions from participants:

- The division of province should be done as per current distinction of zones.
- The workshop initiated discussion among people about federalism which is the good starting point to form consensus
- Instead of make more provinces, less provinces should be made and more development should be done
- The name of the province should incorporate mountain, hills and terai regions
- Federalism should be based on economic independence and potentialities, natural resources, foreign affairs, monetary aspects etc. should be discussed.
- The rights of dalits should be discussed more and even more in local level
- It would have been better if dealt with more specific issues
- It is good to discuss on issues related to marginalized and minorities
- Priority should be given to political and economic rights in relation to federal states
- It is required to distinguish between civilization, nationality and ethnicity
- The provinces should be divided as per right to self determination and identification
- There should be discussion of dalits, indigenous and women's issue in context of federalism and that should be reached to rural areas as well.
- For federalism, beside ethnicity and geography, demand of people should be taken into consideration
- The presentations are good but they only justify the report of the state restructuring committee. It would be better if they provide some alternatives to conflicting issues
- There seem so controversy in naming and bordering of the Kirat province so need of more interaction on this
- The federal structure should be dignified to all
- Referendum should be done in every province for identification of territory of the province as well as the capital of the province
- Federalism should be discussed as per coexistence, multi language and right to self determination
- The recommendations should be taken to the CA
- At the end of series of workshops in proposed provincial capitals, it would be better if another final workshop be done to share the information of all workshops with some important peoples
- It would have been better that the program would have conducted one year earlier
- The material should be prepared with some specific opinions
- The workshop should be moved with more interaction among participants
- Media, people from local governance, politicians, businessmen etc. should have been invited at least in opening and closing session
- The subject matter should be discussed earlier than mapping out of the provinces
- Such workshop should not be city centric rather it should be accessible to people of rural areas
- Allowances should be given to the people from far places
- Information should be provided to local organizations about the workshop
- In future days, the facilitation/ presentation should be done by women as well
- For participation, gender factor as well as others should be made inclusive

- The workshop though fruitful, it would have been better if the organizer have paid more attention to management.
- The shortcoming of the program is not to invite formally to most of the concerned stakeholders
- Expectation for delivery of materials to those who could not get in the venue
- To make program more effective, entertainment session should be added
- The program is found to be lately initiated so request to conduct in other regions within a month
- Pre planning is needed
- It would be better to have timely workshop and trainings
- The workshop should be continued even after finalization of the provinces by CA
- As so many issues to be discussed, allocated time is not enough
- The programs of social awareness, conflict transformation and community mediation should be organized in addition
- To program should be implemented oriented as well
- The selection of the participants should be done cautiously

A WAY AHEAD/ THINGS TO BE DONE:

- The same program should be done in other places of Kirant province as well
- We should create pressure upon CA to formulate Constitution on time addressing peoples desires
- The suggestions made should be taken to state restructuring committee, it is the responsibility of UNDP
- Other issues of constitution should be discussed in similar sort of programs
- CA members should be warned to act effectively
- The issues should be discussed in CCD in presence of participants like us
- The professors should continue their interactions with people in different regions
- The voices of indigenous women should be heard by CA
- The naming and bordering of the provinces should be discussed more before finalization
- Initiate discussions in community about federalism
- As the proposed Kirat province cannot include aspirations of all people, to make it a Sagarmatha province , making voice from the side
- Everyone should try to make the concerned authority attentive about the issues discussed in the workshop
- Report should be submitted to the CA
- Every organization present in the workshop should make their voice to the concerned authorities
- Every stakeholders should be alert
- There should be Triyuga Tharuhat autonomous region
- Revolution by people from Kirant region to make Kirant province
- Continuous training by professors
- Giving pressure to CA members
- Organization of workshop including representatives of all communities
- Inclusion of political parties' leaders and CA members in such workshops
- If we get the chance to study the draft report, then we can suggest more
- UNDP should grant local organizations to held awareness campaigns on federalism in local level
- Major suggestions of the workshops to be handed over to the CA members of the concerned region
- The draft of constitution should be discussed all over Nepal

PHOTOGRAPHS: SOME GLIMPSES OF THE WORKSHOP



