

2010

FEDERALISM DIALOGUES

PROPOSED LIMBUWAN PROVINCE

(26 March-28 March 2010)

Report

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



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1. OVERVIEW OF PROPOSED LIMBUWAN PROVINCE

Conducting a Federalism Dialogue in Ilam, a proposed capital of Limbuwan province, is significant for many reasons. These are briefly highlighted below:

Need for Better Understanding: Before this dialogue, participants had little knowledge about designing federalism in Nepal for the reasons that the concerned institutions, (i.e. political parties, Constituent Assembly (CA), ethnic organizations etc.) have not yet launched public consultations and discussion programs on this critical issue. The source of their knowledge is confined to media reporting and populist campaigning by Limbu ethnic organizations. This dialogue has contributed to engage the people in public discourse for sharing fact-based and reason-based informed knowledge. By this dialogue, participants have come to know the name and boundary of provinces, including Limbuwan, is designed (by Committee of State Restructuring and Division of Power or CSRDP of the CA) primarily on the basis of ethnic identity and ethno-geography.

For Finding Shortcomings of Committee on State Restructuring and Distribution of Power (CSRDP) Report: Limbuwan, like other proposed provinces, is a multicultural, multiethnic, multi-linguistic and multi-religious province. The CSRDP's report has paid proper attention to address heterogeneity of Nepali society at national level but it left out the necessity of constitutional provisions about how to manage diversity at provincial level. Some feedback received from the Ilam dialogue are noteworthy in this regard.

- Make a bicameral legislature at provincial level so that upper house could be a representative body of different social groups of the province.
- Ensure minority rights and distinguish minorities in two categories: native minority which would be organized as a political unit based on principle of customary governance; and migrant minority whose representation in provincial political and administrative institutions should also be guaranteed. Resistance against Limbuwan as a name is there covertly but not strongly – would become a land of people of different social groups living in respective territory rather than becoming a Limbu province.

Exploration of economic viability: At macro level, economic viability of proposed provinces is doubted. The picture might be different if we see this question from micro level. Participants of Ilam dialogue showed a bright picture about economic potentiality and prosperity of Limbuwan. So the ongoing federalism dialogue is extremely useful to examine the question of economic viability of each of the proposed provinces from micro level analysis.

Important issues under shadow: Mindset of participants seemed preoccupied by some controversial issues, (i.e. rationality of ethnic name of province, prime rights, squeezing the territory of province from claims by ethnic organization etc.) So many substantial issues which were less discussed are: division of power between centre and province, division of power between province and local government, structure and function of autonomous areas, protected areas and special areas, inter-provincial relations etc. These issues also should be discussed to the greater length and width in the follow up dialogue in other places.

Feedback on other issues: Ilam dialogue is also remarkable for findings of other important issues.

- There is anxiety about the cost of federalism on national unity and integration.
- There is controversy on prime rights and it is not only Brahmin, Chhetri and Dalit but also participants from non-Limbu *janajati* seemed reluctant to endorse it.
- Disapproval to centralized federalism is very distinct.

2. MAJOR ISSUES

The major issues discussed during the three day workshop are:

Although the name of the province, Limbuwan, comes from Limbu ethnicity, Limbuwan, as a land, includes all people living within its territory

Limbuwan is the territory which has its own significant history making the place unique in its kind. In historic period, the territory existed as a state ruled by Limbus. The Limbus are the aboriginals of the Limbuwan. So name given on the basis of identity of aboriginal people is appreciable and the name is not only for Limbus, rather as a territorial integrity which refers to all people living in that territory. The right over the land of Limbuwan is for its entire people.

Identification of native and migrant minorities

Minorities' rights in context of federal structure are important as to make federalism a sustainable practice. The minorities' rights though are of major concern. First, the minorities' should be distinguished as native (disclosed origins) and migrant (undisclosed origin) and their issues should be addressed separately. The report of the committees of CA is found to be addressing only the concerns of native minorities and indigenous ignoring the issues of migrant minorities. Besides, political rights of self determination and prime rights to native minorities, the migrant minorities should be entrusted with some special political rights as well as guarantee of their social, cultural and economic rights to make their inclusion in the system of governance.

Exploration of natural resources within the province and its wise use will lead to economic development.

Economic feasibility and viability of federalism has been a major issue of discussion among experts, politicians and others on identification of pros and cons of federal structure from the very beginning of discourse on federalism. In this regard, the participants in the workshop explored the way to make Limbuwan province economically sound. They came up with list of existed natural resources, agricultural products and potentialities of hydroelectricity, tourism industries and such to generate revenue in the province. The issues identified as ,in Nepal generally, there is no scarcity of resources for development rather proper management is lacking under unitary system which can be addressed by federal system as people get chance to be near to planning authority.

Demand of extension of territory of proposed Limbuwan province

The name of the province as Limbuwan was highly appreciated by the participants. However, they were found to be not satisfied with territory of the proposed Limbuwan province as they consider the eastern part of Arun River as part of the Limbuwan province.

3. INTRODUCTION

A. Background:

Nepal is in the phase of transition. The historical transformation from long time preexisted unitary form of governance to federal structure is highly significant. However, the fact, that the general people as well as the people oriented in 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, cannot be denied. In the mean time, the state restructuring committee in Constituent Assembly has published the report suggesting 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 is 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.

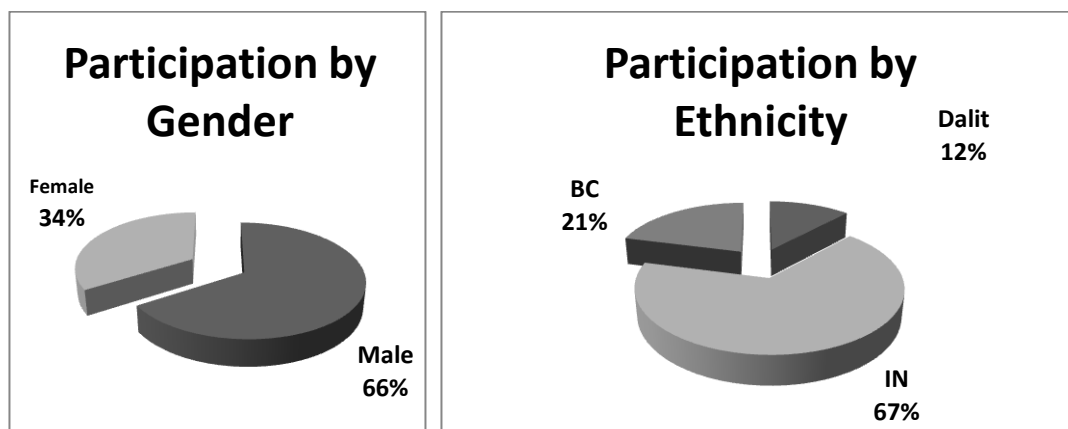
Limbuwan is the province, where the federalism dialogue started. The proposed Limbuwan province includes 217 VDCs in 7 districts namely, Dhankuta, Ilam, Morang, Panchthar, Sankhuwasabha, Taplejung and Terhathum. Though the proposed Limbuwan province is highly dense with People of Limbu ethnicity, the other populations are equally present in the area. From the fact of its history as well as geography, the name Limbuwan has been synonymous to territory not limiting it to any particular ethnicity. Thus the dialogue was arranged to disseminate information about the proposed federalism model and its various aspects on the basis of report of state restructuring committee in CA to make people involved in informed debates on the matter.

B. Venue and Date

The three day provincial workshop on federalism was organized in Ilam Bazaar, Ilam; proposed provincial capital of Limbuwan province on 26th March – 28th March 2010. The workshop was held in the Seminar hall of Sungabha Bikas Sansthan, Ilam. The workshop was residential to make people more engaged in interaction and discussion on various aspects of federalism away from their daily routines.

C. Participants

The representatives from various political parties, social organizations, human right organizations, indigenous and ethnic organizations, government offices participated in the program; 43 in number. Among the participants **12% were Dalits, 21% were Brahmin Chhetris, 67% were from indigenous communities. Female participants were 34% of the total participants.** (The list of participants is in Annex II)



4. DIALOGUE PROCEEDINGS

A. DAY I (March 26th 2010)

Day I explored 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 by Keith Leslie, Team Leader, CSO - SPCBN. He highlighted the importance of the workshop on federalism. He stated that *the workshop is targeted to explore the reality, challenges and opportunities of the federal structure. The workshop was organized to experience the*

real situation and to find out the reality of federal structure with proper discussion with the people of related provinces. He added that the workshop is the platform for the participants to make their voice heard, discuss applicability and sustainability of federalism particularly in their context.

As a Chief Guest to the program, Mr. Kesh Hari Niraula, CDO, Ilam, welcomed all the participants and expressed his best wishes for the success of the program with expectation to have extensive discussion in a platform of such a diversified people.

Expectation Collection

With the end of inaugural session, the workshop took its momentum through 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 is on success and failure practices of federalism in the world and mechanism to make federalism a good and sustainable practice in context of Nepal particularly in context of Limbuwan addressing the needs of every set of people in the territory of Limbuwan. (The expectation of participants are listed in Annex III)

Presentations from Professors

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 ***internally many identities exist in federalism. However, externally only one identity as a Nepali should remain.*** He mentioned that many people have fear the country would disintegrate but international practices showed otherwise. When border of the province is identified under the constitution, it cannot expand its functioning beyond its jurisdiction that Limbuwan province function within its territorial boundary. However 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. He added Federalism as the good mechanism to address and manage diversity. The participants raised some queries which were addressed by Professor Khanal.

Question (Q): *We are on a journey to federalism; the king's statement came at the same time before the monarchy had ended. What is the probability of return of the monarchy in Nepal?*

Answer (A): The monarchy had already ended. It is the fact not hypothetical that be changed. We have already moved further so there is no chance of revival of monarchy in the current situation.

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

Professor Hacchethu discussed on the various aspects of federalism in relation to the report of the state restructuring committee of the Constituent Assembly. He stated before publication of report of state restructuring committee, there was only assumption for territory of the Limbuwan province while report came out as defining territory of province. 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 provincial capital.

Q: *We are not satisfied with territory division in the report and it seems that you professors are here for justifying the content of the report. Is it true?*

A: We are just the facilitators providing actual information on the report to make people discuss more on the contents of the report.

Q. What is the basis of federalism? Is State restructuring on the basis of ethnicity and geography enough?

A. There are two Constituent Assemblies- one of 601 members and the other is of all Nepalese beside 601. So constitution cannot be made ignoring aspirations of Nepalese people. The report of the state restructuring committee has identified ethnic identity and capacity as basis of federalism. Federalism is not a one-time project rather it is an evolutionary process and the basis of federalism change over time. We can change the basis on various periodical reviews.

Forms of Federal Structures at Provincial Level by Prof. Krishna 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 for centre, self rule for province and local government. He gave a glimpse of the report that suggested for proportional participation from every province at the central government on the basis of population and representation from social groups. Further, he added other points that should be taken into consideration as: guarantee of minorities' rights in province, sub provinces for big provinces, determination of election constituencies in province on the basis if castes, special rights too autonomous regions etc.

Q: To whom are prime rights are granted?

A: Prime rights are granted to particular castes for particular tenure. For example, prime right to Limbus in Limbuwan for two terms.

One of the participants suggested that an election would be a better option than nomination for local government. The Professor agreed with this suggestion.

Communities' rights in federalism: Nation Building by Prof. Krishna Khanal

Professor Krishna Khanal discussed on new dimension of federal nation building in terms of communities' rights. He stressed on protection of minorities' under provincial self governance and management of political diversity in federalism. He stated that the nation should be made to be the belongings of all and the same with the province. Federalism is all about learning to live together. The communities' rights should be ensured in the federal structure and one means is the prime rights.

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 "agardhikar" 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 part of the Directive principles in the constitution. The reports' description is not enough to deal with prime rights.

B. DAY II (27th March 2010)

Day II saw discussion on some particular issues of federalism, like rights of different tiers of government, fiscal federalism and explored facts on various issues of federalism by group exercises.

Presentations from Professors

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

The professors 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 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 context has been enlisted under the local list such as primary education, basic health service, mediation, local taxation etc. However there was provided a special list to the autonomous regions as to include functions related to autonomous election council, mines etc. They stressed provision giving more power to the local level that the list developed from bottom up approach will be significant.

Q. What is meant by residuary rights (Abasista adhikar)?

A. The rights not stated in the constitution are called special rights which is are exercised by the central government.

Q. Should the province ask the center government to execute any rights under common list or not?

A. As our provinces will not be self sufficient, they will be dependent on center and for execution of common list, they need permission from the centre. Further one of the participants stated *that distinction of autonomous region seems impractical in presence of local government.*

Fiscal federalism by Prof. Krishna Khanal

Professor Krishna Khanal discussed fiscal federalism that in the absence of fiscal federalism, political federalism is not enough. Up until now, 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 other countries the provincial government in Switzerland, Belgium, Canada, Germany, the provincial government spends less (30% to 40%) where as there are countries like Malaysia where the provincial government spends 84% of the total collected revenue. 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 government has to deal with monetary policies, central banking, custom, international trade etc.

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

After some insights from the professors, the participants were divided into 5 groups to discuss and make consensus on issues related to rights and duties of centre, province and local government, distribution of revenue and economic rights, local government and service provisions, minority rights and inter provincial relationship. They entrusted more rights on provincial and local government to make them more responsible to the people. They allocated revenues of national natural resources more to the centre where as the administrative collection and taxation from regulatory activities to be consumed more in local level. They identified the probable areas of conflict as use of natural resources (water, forest, land), tax, revenue distribution, related to representation, number of local governments etc. and suggested solutions as execution of ILO 169 and UNDRIP with enactment of laws (water, land, forest) and Formation of a strong mechanism to address conflicts. They suggested making a proper balance of relation between two or more provinces, centre being the guardian of all. (The details of group presentation is in Annex 4)

C. DAY III (28th March 2010)

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

Discussion on Limbuwan province by local resource person, journalist, Bhawani Baral

The expert from local area provided a context of Limbuwan province. He talked about history of the Limbuwan, rationality behind naming the province as Limbuwan, resources available within the territory of Limbuwan, demographic structure, protection of minorities' rights etc. He stressed that first condition is the freedom to Limbus and the second is the freedom to Limbuwan state that state restructuring should consider. The federal structure should address the demands of the people in Limbuwan to include 9 districts under Limbuwan on the valid ground of its history, geography and administration that if historical fact is ignored, then it would create a ground for revolution. However the Limbuwan province should be inclusive and pay attention to all communities

within its territorial boundary. He stressed that Limbuwan should be considered different from other provinces that the province in itself has sufficient resources for survival which make the central government less responsible to the Limbuwan province.

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

The participants were divided into 4 groups to identify issues like historical, geographical, political/administration factor in construction of local government, municipalities, villages etc., Judicial system, rights of minorities and aboriginals [native (disclosed homeland)/ migrant (undisclosed homeland)], natural resources and probabilities of economic progress in context of Limbuwan. The participants, after a huge discussion in their small groups, brought many ideas to be discussed on the floor. They came up with ideas that Limbuwan has its history, its own historical territory, aspirations of people which should be taken into consideration while making it a province. Talking about judiciary, they highlighted on provincial high court, *Ilaka* Court and local court with provision of appeal from lower to higher. They focused on political rights in the form of prime rights to indigenous and minorities as well as guarantee of social, cultural and economic rights. The participants as well as professors discussed on various dimension of federalism, its challenges, opportunities, management in context of Nepal from general to being specific in context of Limbuwan. (The details of the group findings are in Annex 4)

Closing Session

At the end of the 3 days workshop on federalism, professors, representatives from participants and UNDP representatives expressed their remarks on the program. Professor Khanal appreciated people’s active participation and praised their understanding of federalism that though they wanted to stick with the name called Limbuwan, they voiced for other processes inside the province be democratic. Professor Hacchethu added that people in Limbuwan are more aware about the rights of everyone inside Limbuwan which is a good symbol for sustenance of federalism. Bishnu Dahal and Durga Mani Dewan expressed their gratitude for organizing such a fruitful program which enlightened the people of Limuwan to initiate discussion and sensitize people about federalism. Both of them opined that collective work is needed to establish rights of all in federal structure in addition to the slogans for federalism. They focused to be committed in sensitizing, training people to make a mission of federalism accomplished.

The program was adjourned by the representative from UNDP, Kalpana Sarkar. She expressed sincere gratitude to professors for facilitating the workshops. Further she appreciated active participation from the participants and assured *the participants that their recommendations, their opinions will be taken to the right platform through UNDP so that their voices are reflected in the upcoming constitution*. She assured that UNDP is always ready to play a role of facilitator.

5. EVALUATION SUMMARY

The total **38** participants completed the evaluation forms provided. Most of the participants appreciated the efforts of the organizer for arranging the dialogues so that people from diverse groups could interact about various issues of federalism in one platform. 60% of the participants found the workshop to be useful. The details of evaluation by participants in terms of content/matter of workshop, facilitation, selection of participants and management is illustrated in the following chart.

Workshop subject matters and content		
Not useful	Useful	Good
1	23	14
Presentation/Facilitation		
Unsatisfactory	Satisfactory	Good
	25	13
Selection of participants		
Not useful	Useful	Good
	29	8
Management		

Unsatisfactory	Satisfactory	Good
1	31	6
Need for continuation of workshop		
Yes	No	
37		

6. RECOMMENDATIONS

Participants made the following recommendations:

- conduct dialogues in every district before 28 May 2010.
- Organize an interaction between government, CA members and indigenous people.
- Increase the number of days from 3 days to 5 days
- Follow up this workshop periodically in every province, especially focusing on the specific new information.

ANNEX 1

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 Hachhethu
- 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

	Name	Gender	Community	Phone	Description/Designation	Home district	Remarks
1	Sharda Koirala	F	BC	9842140179	District Committee Secretariat Member, UML.	Terhthum	Political party leader
2	Kancha Laoti	M	IN	9742647905	Limbuwan National Liberation Front, UNCP/Maoist.	Ilam	Political Party leader
3	Bir Nembang	M	IN	9842661160	Limbuwan Mukti Morcha.	Ilam	Political Party leader
4	Lok Maya Bhattarai	F	BC	9842660380	District Committee, UML.	Taplejung	Political Party leader
5	Gajendra Tumyahang	M	IN	9842660697	Nepali Congress, Taplejung	Taplejung	Political Party leader
6	Padam Adhikari	M	BC	9842036957	Fadation of Limbuwan State Committee.	Panchthar	Political party leader
7	KB fudong	M	IN	9842075982	CPN/United affiliated.	Terhthum	Political party leader
8	Somnath Bastola	M	BC	520478	RPP District Committee, Ilam	Ilam	Political Party leader
9	Kamala Thapa	F	BC	24690760	RPP Rastriya Prajatantrik Mahila Sangh.	Panchthar	Political Party leader
10	Triveni Chongbang	M	IN	9841234957	Nepal Loktantrik Kirat Limbu Sangh.	Sunsari	Political Party leader
11	Deu Narayan Limbu	M	IN	9742004807	Munch affiliated-Limbuwan Sanghiya Parisad	Terhthum	Political Party leader
12	Durga Mani Dewan	M	IN	9841433499	Kirat Yakkha Chhumma.	Sankhwasabha	Ethnic/minority activist
13	Khinu Langwa	F	IN	9842636397	Mahila Srijana Samaj.	Ilam	Women activist
14	Arjun Chhara	M	IN	9842061604	Kirat Athpahriya Samaj Nepal	Dhankuta	Ethnic/minority activist
15	Gayatri Thegim	F	IN	9742015945	Kirat Yakthung Chumlung CC member.	Ilam	Ethnic/minority activist
16	Ful Maya Limbu	F	IN	9841501676	Kirat Yakthung Chumlung, Ilam	Ilam	Ethnic/minority activist
17	Sancharmit Lapcha	F	IN	23581342	Lapcha Uthhan Manch.	Ilam	Ethnic/minority activist
18	Buddha Raj Limbu	M	IN	9742602092	KYC, Cultural Department / UML.	Panchthar	Ethnic/minority activist
19	Ram Bahadur Dhimal	M	IN	9842134641	Chair, Dhimal Jatiya Bikas Kendra.	Jhapa	Ethnic/minority activist
20	Krishna Lal Meche	M	IN	9842684602	Meche Samaj Sibiyari Aafat.	Jhapa	Ethnic/minority activist
21	Shyam Mandal Ganesh	M	IN	9842134641	Chair, Nepal Gangai (Ganesh) Kalyan Parishad.	Morang	Ethnic/minority activist
22	Purnaman Lawoti	M	IN	9842629511	Kirat Yakthung Chumlung, Jhapa District Branch.	Jhapa	Ethnic/minority aaactivist

23	Chitra Pahango	M	IN	9842057141	Kirat Yakthung Chumlung, Morang.	Morang	Ethnic/minority activist
24	Devendra Biswokarma	M	Dalit	9842635898	Utpidit Janadhikar Manch.	Ilam	Dalit activist
25	Bhakta Bahadur BK	M	Dalit	9742012721	District Dalit Network.	Sankhwasabha	Dalit activist
26	Bindu Lamgade	F	Dalit	9742626001	Mukti Samaj Nepal.	Ilam	Dalit activist
27	Yagya Kumari Ruchal	F	Dalit	9742022428	Dalit Ekata Samaj.	Dhankuta	Dalit activist
28	Mangala Nepali	F	Dalit	26460068	Krantikari Mahila Sangh (UCPN Maoist affiliated).	Terhthum	Dalit activist
29	Bisnu Limbu Dahal	F	BC	9852680118	Women's Democratic Network (NC).	Ilam	Women activist
30	Shanti Dewan	F	IN	9841581238	Kirat Yakkha Chhumma.	Dhankuta	Women activist
31	Bimala Dhakal	F	BC	9842662179	Mahila Maanab Adhikar Sanjal.	Panchthar	Women activist
32	Gita Sendang	F	IN	9842660683	Aadibasi Janjati Mahila Maha Sangh.	Taplejung	Women activist
33	Yam Prasad Limbu	M	IN	9842636138	NBA appellate court, Ilam.	Ilam	Bar association
34	Narayan Luintel	M	BC	9742016387	NBA, Terhthum	Ilam	Bar association
35	Narendra Kerung	M	IN	9742602719	Lecturer, Panchthar Bahumukhi Campus, Panchthar.	Panchthar	Educational expert
36	Mohan Singh Thebe	M	IN	9852680017	Human Rights Forum, Ilam.	Ilam	Human rights defender
37	Raj Kumari Rai	F	IN	9842109662	Human Rights Social Awareness and Dev Centre.	Dhankuta	Human rights defender
38	Kedar Shrestha	M	Newar	9842647905	Chamber of Commerce, Ilam.	Ilam	Chamber of commerce
39	Bhawani Baral	M	BC	9842055871	Journalist	Sunsari	Journalist
40	Bhup Raj Rai	M	IN	9852680684	DDC, Ilam		Local Govt Official
41	Pankaj Bhurtel	M	BC	9852671405	DDC, Jhapa	Jhapa	Local Govt Official
42	Lal Bahadur Limbu	M	IN	9842636443	Ex-DDC chair	Ilam	Political leader
43	Narayan Ninglekhu	M	IN	9841623954	Program Coordinator	Terhthum	KYC/SPCBN

From UNDP

1. Keith Leslie
2. Kalpana Sarkar
3. Mom Bishwakarma
4. Aruna Joshi

Resource Persons

1. Prof. Krishna Khanal
2. Prof. Krishna Hacchethu

ANNEX III

Expectations of participants from the workshop:

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
- Federalism and its advantages for Nepalese
- Benefits to Illam Nepal being federal state
- Situation of minorities, marginalized in federal structure
- Situation/ position of VDC, DDC etc
- Successful practices of federalism in the world
- Ways to make federalism sustainable
- Rights to self determination
- Actual functioning of the federal structures
- Management of resources properly
- Issues of distinction of territories
- Proper mechanism to include all in federal structures
- Contents of the reports of CA thematic committee
- Issues of dalits rights in federal state
- Rights, roles and powers of the business holders
- Nature of the autonomous region within the federal state
- Modalities of coordination among states, resource mobilization etc
- Addressing the spirits of minorities in the provincial levels
- Expected that the issues discussed in the workshop will be taken to the attention of CA

ANNEX IV

Group Work Outcome

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

GROUP 1: Rights and duties of Centre, province and local government

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

The rights and duties of the central government as to deal with:

1. Defense, Monetary, Foreign affairs
2. Central communication, Radio – television-frequency, international postal service
3. Custom, visa and immigration
4. Civil service management and statistics
5. Electricity project more than 100 Mw
6. Central university, central library, central health service
7. Central executive and central legislative
8. National railways and highways, national spy, national research
9. Constitutional / supreme court
10. Nuclear energy/ space
11. Measurement, Insurance policy

The rights and duties of provincial government as to deal with :

1. Provincial constitution
2. Police administration, peace and security
3. Banks and commercial organizations
4. Foreign grants and aids
5. Radio, F. M., Television
6. Excise, VAT, passport, tourism fee, service charge, individual income tax, property tax, business tax, entertainment tax, advertisement tax, agriculture tax
7. Royalty from natural resources
8. Management of provincial civil service
9. Provincial executive, legislative, judiciary
10. University and high education
11. Subject wise commissions
12. Inter provincial trade, airlines, railways, water transport
13. Provincial research bureau
14. Management of citizenship and passport
15. Mineral management
16. Insurance management
17. Language, script, culture, religion protection and promotion
18. Water, land, forest
19. Industry and factories
20. Books, newspapers, publications
21. Trust management

The rights and duties undertaken by the local government as to issues of :

1. City police, community police
2. Cooperatives
3. Local tax, land tax, property, vehicles, service tax, tourism tax, advertisement tax, entertainment tax
4. Royalty from natural resources, management of local resources
5. Development projects in local level
6. All levels of educational institutions
7. Health and sanitation
8. Local councils

9. Local court, mediation committee, reconciliation
10. Local land ownership document, registration of birth, death ,marriage
11. Agriculture, animal farming, plantation, industry management

GROUP 2: Distribution of Revenue and Economic Rights

The group was assigned to allocate resources and revenue to make a proper distribution of them to the center, province and the local level.They came with the following suggestions on allocation of revenues and tax collection:

Revenue Collection from various resources

Resources	Centre	Province	Local
Water resources	40%	50%	10%
Minerals	60%	20%	20%
Forest (wood / herbals)	20%	50%	30%
Human resources (Foreign / local employment)	20%	60%	20%

Tax Collection

	Centre	Province	Local
Administrative tax (land/passport/citizenship/Income)	30%	50%	20%
Property/ house/ Industry/Commerce etc.	0%	60%	40%
Contract tax	50%	30%	20%
Other undisclosed natural resources' tax	0%	20%	80%

Carbon trade: proportional distribution from centre

Tourism: consumption in collected places

GROUP 3: Local Government and Service Provisions

The group added the following provisions to make the local government more near to the people and effective implementation of federal structure in local level.

For VDC, the following functions were added:

1. Determination of wards (5-9)
2. Direct election for president, vice president of VDC, head of ward, one should be women either president or vice president
3. The nomination of people under following categories from concerned community/ group
 - a. Dali b. Disabled c. minorities d. women e. third gender f. Madhesi g. Aboriginal /Indigenous
4. In reference to above 2 and 3 appointment of representatives of municipalities
5. The power of the elected and nominated members are equal

Further they listed the rights of local government as:

1. Education
2. Health
3. Natural resources
4. Employment
5. Revenue
6. Security
7. Information communication
8. Drinking water
9. Irrigation
10. Electricity(10 Mw)
11. Industry
12. Vehicles

13. Environment
14. Bio diversity
15. Prime rights in local level

They focused on module of Justice Dispension in local level under ; Village/ Municipality court and Social Judicial Committee to solve and manage all conflicts except cases of grievous criminal nature.

Diverging opinion

Competition on the basis of political parties in local level is required or not

GROUP 4: Minority rights and Problems/ conflicts

Dealing with the rights of minorities in context of federalism, the group came with addition of some rights to the rights provided under the report of the sate restructuring committee of the Constituent Assembly. They suggested some **solutions address lacunae in the report as:**

- Minorities to be defined to include the following particularly in context of Limbuwan:
 1. Identity disclosed in province: yakkha, lapcha, yamphu, loharung, Ampahariya, lhomi, Dhimal, Rajdhami, Kishan, Meche, Jhangad, Mewahang Tajpuriya, Satar, Gangai, Rajbanshi etc.
 2. Identity not disclosed in province

Then they highlighted the **policy arrangement** to determine the rights of the minorities as:

- Arrangement of special self governance in units, municipalities, villages as such territorial as per their living to the minorities not disclosed in the list ; in Limbuwan
- Proportional representation as per territorial occupation and for those who cannot be represented should be promoted by concerned academy
- Non territorial federation for Dalits
- Additional rights:
 - if women from minorities marry with man from other castes, their belongingness to their own community should be maintained
 - Special arrangement for population growth
 - Representation from autonomous region in central legislative
 - Provision of customary laws
 - Prime rights of the people from same caste in judiciary on the ground of merits
 - Special provision to minority groups in relation to transactions of lands to disclosed groups
 - The official language should be the language of the people whose autonomous region is that region
 - Guarantee of education and health by the province

GROUP 5: Inter provincial relationship

The group identified the following sectors where the relationships between two or more provinces are significant:

1. Natural Resources
Forest products, irrigation, electricity, pure water, rocks, sand, stones, pebbles, herbals, wild lives
2. Industries- import and export of raw materials, consumption of products
3. Trade relation – import, export of produced goods
4. Human resources- exchange of Technical experts, engineers, doctors, lecturers
5. Tourism development- creation of good environment
6. Religious , cultural, linguistic harmony should be maintained
7. Transportation (air ways, water ways, land ways, underground ways etc)
8. Communication- exchange of information
9. Education and Health service(open policy for High education, technical education, treatment)
10. Social security- issue of extradition
11. Partnership policy for use and distribution of natural resources in the border areas.

Group Exercise 2: Exploring the facts about different facets of federalism in context of Limbuwan province

GROUP 1: Economic probabilities from Natural Resources in context of Limbuwan

The group identified the natural resources and its capacity for economic development particularly within the Limbuwan province. They categorized the resources and provided facts and figures to reflect its potentialities. Their identification of resources within the Limbuwan province can be listed as:

A) Water resources (License issued for electricity production) : They showed the statistics of hydroelectricity potentialities of various rivers within the territory of Limbuwan which can be listed as:

Capacity (Mw)

- Upper Arun- 325
- Lower Arun- 308
- River A.- 308
- Tamor Mewa- 101
- River B- 405
- Kaweli- 35
- Tamor- 35
- Simbu- 33
- Ghunsha 2- 32.1
- Kabeli 8- 32
- Kimbyanka Arun-30
- Ghunsha1- 28
- Tamor 2- 26
- Tamor- 22.9
- Lower Tamor- 22.8
- Kabeli Khola- 18
- Mai – 1.5
- Kabeli- 15
- Sindhuwa- 11.8
- Tamor 1- 11.6
- Sankhuwa khola- 10
- Kabeli Khola- 10
- Upper Mewa- 5.2
- Mai khola- 3.2
- Pheme, Khorangwa, Sama, Middle, freme, Upper mai, koya khola, henwa,- 1045
- philwa khola-6.3
- Faba- 3

The total capacity of hydroelectricity as identified by the group is : 2,572.9 Mw. Whose monetary value is around 2 Arab Nepalese rupees (reference till 2064)

B) Agriculture: They again provided data in relation to show the productivity and export of various agricultural products within Limbuwan which is as follows:

- Agricultural land: 969961 Hecter
- Forest: 700000 hecter
- Situation of agriculture development
- ✓ Food production; in demanded 9 districts (in proposed 6 districts)
 - Paddy: 9 lakh metric ton
 - Corn: 2.5 lakh metric ton (1.5 metric ton)
 - Wheat: 1.23 lakh metric ton (0.30 metric ton)
 - Millet: 45 lakh metric ton (0.39 metric ton)
 - Barley: 1 lakh metric ton (100 metric ton)
 - Potato: 1 lakh metric ton (300 metric ton)
- ✓ Animal farming: 12 lakhs (6.21 lakh)
- ✓ Tea production: 5838 metric ton (300 metric ton alone in Ilam)
- ✓ Cash crops:

Cardamom: 6648 ton (production), 5843 ton (export) as per 2062/63

Fruits

Vegetables

Ginger

Amrisho

Herbs

✓ Cold drinks

C) Tourism: They identified various areas which are considered good for tourism as:

- 42 himalayan ranges including Kanchanjuga- the third highest peak of the world
- Kanchanjunga protection area – 20 sq. km.
- Makalu – Barun protected area- 830 sq. km.
- Koshi Wildlife reserve- 175 sq. km.

To verify their identification they further provided the data related to tourist arrival in different places of Limbuwan (reference to yr. 2002) which is as:

- Kanchanjuga- 21 team
- Kumbhakarna- 8 team
- Tenko- 6 team
- Ramtang- 2 team
- Kirat Chuli- 1 team
- Tromo- 1 team
- Pathibhara- 3 team
- Jevijela- 1 team
- Z Nasang Peak- 1 team
- Rafting- 500 (Arun River), 200 (Tamor) in 2000
- Number of tourist via land: 5555 (11% of the total) from Kakadbhitta
- Culture, art and entertainment

GROUP 2: Judicial system in context of Limbuwan

The group identified and suggested following for the judiciary.

- a) Classification of Judiciary
 - i) Provincial High Court
 - ii) *Ilaka/Thum* Court
 - iii) Local court
- b) Appointment Procedure: Appointed by provincial constitutional council
- c) Qualification:
 - Qualification to be a justice , obtained from educational institution
 - Priority to the multilinguistic person
 - As prescribed by the constitution of federation as well as the constitution of the province
- d) Number of Judges
 - Provincial High Court: 7 (3 indigenous, 2 women, 2 others)
 - *Ilaka* court : 5 (2 Indigenous 1 woman, 2 others)
 - Local court- 3 benches
 - General: 2 (1 Indigenous, 1 other)
 - Special: 2
 - Aboriginal/ Indigenous: 2
- e) Area of working/ Jurisdiction:
 - Local court (general):

All cases of general nature

Cases related to indigenous/ non indigenous

Others as prescribed

- Special

All cases related to autonomous/special autonomous region

Others prescribed by law

All types of writs to be entertained by *Ilaka* court

Special bench giving preference to the customary laws

Appeal from Provincial High Court to the Supreme Court

No appeal to the Supreme Court to the cases related to language, script, religion, culture etc.

- *Ilaka* Court:
 - Appeal from local courts
 - Writ jurisdiction of cases of habeas corpus
 - Others as prescribed by law
 - Provincial High court;
 - Monitoring of head of judiciary in the province
 - Protection of laws of province
 - Hearing Appeal from lower courts
 - Interpretation of provincial constitution
 - Other as prescribed by law

GROUP 3: Rights of Aboriginal/ Indigenous and Minorities in context of Limbuwan (disclosed/ undisclosed)

The group came with identification of rights of aboriginals, indigenous and minorities in terms of their political rights, economic rights and social and cultural rights. Further they categorized the groups of minorities as disclosed and undisclosed as their history and actual origination is unknown. Their suggestions can be listed as:

Rights of Indigenous and Minorities (disclosed)

- Political rights
 - Right to self determination
 - Prime rights/ special rights
 - Rights of full power of governance
- Economic rights
 - Natural resources
 - Biological diversity
 - Customary practices
- Social and Cultural Rights
 - Language, religion and culture
 - Higher education in mother tongue
 - Health
 - Self employment

Rights of Indigenous and minorities (undisclosed)

- Political right
 - Special right
- Economic right
 - Protection and promotion of customary / traditional knowledge and skills
- Social and cultural right
 - Protection and promotion of language, religion and culture
 - Health and education
 - Allowances for 15 years

GROUP 4: In context of Limbuwan.... Historical, geographical, political/ administrative form: formation of local government (municipality/ village committee), special region, autonomous region, protected region

Findings:

The group came with brief description of the history, geography, administrative structure to be incorporated under federal structure to make federalism more viable particularly in context of Limbuwan.

Brief History:

- 6th Century- 'Yakthum laje', 10 kings of the region won over 8 kings with bow and arrow. At that time the jurisdiction of the Limbuwan was expanded to Tista in the east, Dudhkoshi in the west, Tibet in the north and Jalalgadh in the south.
- 6th August 1757- Prithivi Narayan Shah signed an agreement with Parwarehang, Chotsahang and others accepting the sovereignty of the region, at that time the border was Narayani river in the west, jalalgadh in the south and Tibet in the north
- In 1831 Shrawan 22, the contract for coexistence held between Prithvi Narayan Shah and Limbuwan province which is called as Salt- Water Agreement. After this agreement Limbuwan existed as co- state of Nepal and its territorial boundary expanded to Saptakoshi in the east, Tista in the west, Tibet in the north and Muglan in the south.
- After Sugaulai Treaty, some places were given to the East India like Galgaliya, Jalalgadh etc.
- In 1845- Then King Rana Bahadur Shah curtailed the status of Limbuwan as co state and provided regional autonomy with *Amal* administration and *Kipat* arrangement
- In 2017-King Mahendra renewed the agreement with Limbuwan
- In 2019 the *Amal* and *Kipat* system were made ineffective
- At the time of *Amal* and *Kipat* , people of many caste and ethnicity had possessed different posts, land
- With series of events, the territory of the Limbuwan had been curtailed and the report of the state restructuring committee has followed the same.

Geographical area:

- On the basis of historical facts, Limbuwan covered area east to the river Saptakoshi
- The land distribution should be on the historical ground
- Limbuwan is distinct from other regions that should be taken into consideration

Administrative structure:

- Limbuwan should be autonomous state not the province
- There should be three organs of government- legislative, executive and judiciary
- Executive- the head of the state should be of the party gaining majority in the election
- Judiciary: -autonomous judiciary
- Autonomous region/ *Ilaka*
- Social Justice committee (Mediation)
- Legislative: Bicameral

(# legislature for disclosed aboriginal and indigenous people from special autonomous region- should be represented as 49- 51)

Diverging opinions:

- Proportional Election system
- Limbuwan should be called as province not an autonomous state
- Unicameral legislature
- Head of the province should be aboriginal of the same region

ANNEX V

QUESTIONS AND ANSWERS DURING THE WORKSHOP

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 basis of federalism? Is State restructuring on the basis of ethnicity and geography enough?*

A. There are two Constituent Assemblies- one of 601 members and the other is of all Nepalese beside 601. So constitution cannot be made ignoring aspirations of Nepalese people. The report of the state restructuring committee has identified ethnic identity and capacity as basis of federalism. Federalism is not a one time project rather it is evolutionary process and the basis of federalism change over the time. We can change the basis on various periodical reviews.

Q. *How to tackle the mentality of native and alien differentiation?*

A. Sometimes the politics of votes can bring the result of native vs. alien mentality for that social economic standard should be upgraded.

Q. *Federalism is related to restructuring. The high level political mechanism so formed is restricting formation of state restructuring commission and its function when CA is active. What if the commission is formed by the high level political mechanism?*

A. CA can decide for state restructuring commission, but if made by government or high level political mechanism then it cannot be trusted.

Q. *What was the situation of conflict on caste basis in other countries?*

A. There was no distinction of caste to that extent in other countries beside India and Nepal.

Q. *Is Self determination is right to secession at the ultimate?*

A. Self determination right- limited the rights of the state as to consult with the local people in the area in making any decisions. UN and International law consider self determination as rights of a nation not of states within the nation so no question of secession. However all states under USSR are stated as sovereign so they separated.

Q. *How to establish rights of dalits as they are scattered? How to bring them in forefront and address their problems?*

A. Dalits should be provided with special reservation in every sphere from center to the local as a part of historical compensation. For example; the CA report has talked about 13% (total population of dalits) + 3% (compensation)= 16% reservation in political system of the center where as 5% in addition to total population in the province as reservation to dalits in the provincial governance system.

Q. *Is not those violate the principle of separation of power if judicial appointment is done by the legislature?*

A. Appointment in judiciary should be done by an independent commission. There is a provision of judicial review as well.

Q. *What will be the nature of sub province?*

A. Sub province is for convenience and coordination for governance. But if there are more levels of governance more administrative complexities may arise.

Q. *Is nomination of person in governance as per report of the restructuring committee good?*

A. Election is better than nomination.

Q. *What happen if we donot incorporate any religious word or the word 'secularism 'in the constitution?*

A. Yes, it is good that state be silent on matter of religion. But as we have already declared state to be secular, the word 'secularism' in the constitution can not be taken out.

Q. *What will be the language policy?*

A. For official purpose languages can be listed. But the levels of all language are not the same so policy should be open.

Q. *How to address the discrimination done in private sphere?*

A. Discrimination is discrimination if it is intentional either in public or private.

Q. *How will center distribute the resources?*

A. The provinces will definitely be unequal. It is the responsibility of the center to make them balanced so center should allocate resources on equitable ground. The commissions as per need and nature can be formed to deal with issues of resource allocation.

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:

- It would be better if workshop is done in every district
- It would be better if program launched in leadership from women and Dalits
- It would be better to conduct such program in every district before 14th Jesth
- It would be better to conduct workshop on implementation of federalism
- It would be better to held interaction between government, CA members, indigenous and aboriginals of the region
- The time period of the workshop should be expanded
- More discourse on positive aspects of federalism
- Everyone in the Limbuwan should be aware of federalism
- Separate discussion on various dimensions of federalism should be done
- The strategy to implement federalism should be developed in order to reach target groups with challenges and opportunities of federalism
- It would be better if the discussion be held between political leaders and members of thematic committees
- It would be better if the workshop address the conflict and sensitize people to form consensus
- The context of Limbuwan should have discussed more
- It would be better if discussed more on minorities' rights, administrative structure, civil service etc.
- The program should be continued
- The number of participants should be increased
- Even after promulgation of the constitution such program should be done to aware people
- The issues discussed in the workshop should be taken to the state restructuring committee
- Need of more discussion on separation of power, judicial system, inter provincial system etc.
- Such workshops help to identify the challenges and their solutions so there is a need of such workshops in other sector as well.

Future Plans/ What's ahead/ Things to be done:

- From personal side, they committed to make people aware about federalism in their local regions
- Being representatives from various organizations, they assured to conduct different awareness campaigns to sensitize people about federalism
- They wanted UNDP to approach their suggestions to the concerned authorities
- The campaign will be launched to make CA hear about demands of people of Limbuwan that proposed territory under report of the state restructuring committee should be expanded
- From every side the interaction with CA members should be organized
- The participants assured to bring their learnings to their organizations, political parties and their communities.
- Such program should be done in all districts

- Making people informed through articles
- UNDP should conduct similar workshop with CA members to make them alert in the issues collected various workshops.
- UNDP and facilitators should publish the findings and recommendations of the workshop as well as they should approach to key political actors with this information.

FIELD PROJECT MONITORING REPORT

	FIELD MONITORING REPORT	
	Programme/Project title:	SPCBN
	Key objective of field visit	To observe and monitor the start-up of the three day civil society 'Federalism Dialogue' (workshop)
	Districts/VDCs visited:	Ilam HQ (proposed Limbuwan provincial capital)
	Monitor(s)/ Ovserver:	Kalpana Sarkar
	Monitoring visit date:	26-28 March 2010

SUMMARY

Rating Category	a	b	c	d	Not Assessed
Relevance	X				
EFFICIENCY	X				
EFFECTIVENESS	X				
POTENTIAL SUSTAINABILITY		X			
Safe and Effective development	X				

Note: a=very good; b=above average; c=below average; d=serious deficiencies

Major Issues that may require immediate action:

- **Bring State Restructuring Committee CA Members to the Federalism Dialogues:** From the first SPCBN Federalism Dialogue in Ilam (Limbuwan), we realised how useful it would be to bring at least two CA members from the State Restructuring (or Constitution) Committee to the provincial workshop for at least the last day of the three day workshop. Given the rich and valuable discussions among the diverse participants, the CA MPs can hear the participants' suggestions and local recommendations on the proposed new federal structures, as well as respond to the detailed queries of the participants
- **Compile and Present Federalism Dialogue Recommendations to the CA:** As per participants' request, SPCBN should compile the major recommendations on federalism from all twelve workshops and present these officially to the CA Chairman. In between, it would be useful to present the major findings from these workshops at the CCD after every cluster of Federalism Dialogues. Given the importance of local and provincial input to the federalism discussions, this feedback from the periphery would be of great value to the national debates and planning.
- **Expand Provincial Dialogues and Workshops:** From the participants feedback and our observation, we realised that UNDP and SPCBN should initiate even more of these strategic interactions at the provincial level more frequently to engage local leaders, civil society members, government officials and the general public on issues of critical importance during the preparation of the constitution. The participants in these workshops were extremely positive and enthusiastic about the opportunity to hear directly about the work of the CA Committees and discuss national as well

as local issues of federalism.

Key Actions Recommended*

Priority	Who	What	By When
1.	SPCBN	The SPCBN team and Dialogue facilitators (<i>Prof.s Khanal and Hacchetchu</i>) should bring at least two CA members from the State Restructuring Committee to each of the provincial workshops.	As Soon As Possible.
2.	SPCBN	Recommendations from the compiled Federalism Dialogues should be handed-over to the CA Chair, and meetings organized at the CCD on the findings from these provincial workshops.	After compilation within the time frame of constitution drafting process.
3.	UNDP and SPCBN	More provincial workshops and dialogues should be held to engage local leaders (<i>civil society, civil service, marginalized communities, political leaders and the media</i>) on key issues related to both the drafting of the new constitution, as well as development issues, at future provincial level.	During 2010 and in future planning documents.

EXPLANATORY COMMENTS

1. Relevance

The primary three day CCD Federalism Workshop objective is to use nationally-respected Nepali political scientists (*Prof.s Krishna Khanal and Haatetchu*) to share fact-based details on the CA State Restructuring Committee report to initiate serious local discussions and propose practical recommendations among provincial opinion makers, local political party leaders, civil society leaders, marginalized representatives and local government civil servants, The key issues discussed included the following aspects of federalism:

- Forms and structures by which federalism may be designed;
- Relationships among central, provincial, autonomous regions and local governments;
- Proposed powers of provinces, autonomous regions and local governments;
- The recently CA State Restructuring- approved concept paper;
- Individual and collective minority rights, fiscal federalism, indigenous rights; and,
- Practical problems and challenges while implementing the federal structure.

The participants’ stated that the recent CA Committee draft concept papers have never been shared to the district/provincial civil society, governemnt ofiicials, political parties or general people by either the CA or the political parties. Therefore, this CCD workshop was very useful and timely for them as it provided the fora to learn directly about the State Restructuting Committee

draft concept paper, as well as gain a more detailed and substantive understanding on issues related to federalism in Nepal. The Dialogue methodology provided the opportunity for diverse local leaders to discuss their concerns and ideas on the proposed federal structure for their future province. They said that will ensure that their feedback goes directly to their CA members and political parties. This workshop created a safe and well-managed mechanism to discuss these critical issues at the local level. The participants unanimously praised the innovative and effective CCD engagement at the field level where they live and work. They asked for more of these CCD workshops to be held in the provinces/regions where they can attend and provide their feedback to the national leaders and CA processes.

2. Efficiency

Both the resource persons, Professors Krishna Khanal and Krishna Haccetchu, are well-known and well-informed about the program content. One local expert was contracted to provide details on the local context. The combination of the lecture, Q&A, small group discussion and plenary was very effective. All the 45+ participants were very engaged in the detailed group discussions. The women's participation was 35% and they were very active in the plenary as well as in group discussions. There was the representation from all the various caste and ethnic groups within the proposed provincial territory. It would be beneficial to ensure that continual follow up is done by the Project on these issues and other aspects of constitution-building.

3. Effectiveness

Previous to this workshop, the local participants stated that they never had a chance to see any of the CA draft concept papers, nor were there any similar events organized by the CA or any other organisation or political party. This Federalism Dialogue, therefore, was extremely important to brief them on the State Restructuring Committee draft concept paper, as well as discuss challenges to the implementation of federalisation and, most importantly, allow group discussions on federalism in their local context. The workshop contents were very effective, as well as the many CCD booklets and resource materials on federalism that were given to the participants for more detailed background reading. All participants contributed actively during the sessions. The participants realised they should discuss these matters regularly at their community level. The history of Limbuwan was clearly explained and discussed to share their local ideas and concerns on federalisation. The participants also requested UNDP to share their provincial level recommendations directly with the CA.

4. Potential Sustainability

SCPBN should do some kind of follow up programme to ensure that these discussions continue.

5. Safe and Effective Development

- **Not assessed**

6. Update on ATLAS Risks and Issues

There is still much debate within Nepal on the acceptance of provinces proposed by the State Restructuring Committee. At the workshop, there was a very open discussion with a better mutual understanding and appreciation after the conclusion of the dialogue.

Observation of the Federalism workshop Ilam(26-30 March) and Udayapur (30 March-1 April)

SPCBN organized two workshops in two separate places of proposed provincial capital of two province-Limbuwan and Kirant. Almost 100 participants took part these workshop mainly from local level political parties, civil society organization, human rights organization, ethnic & social organizations, government offices etc.

These workshops were conducted mainly in three methodological order; i) clarity on the conceptual part ii) discussion and exploration of general issues iii) Group work on specific issues of related province-history and geography of province, political and administrative structure, natural resources and its possibilities, judiciary-customary law. The following features are the main observation for these workshops:

Acceptance and commitment of participants: Federalism workshop was widely accepted by the workshop participants that it was timely discourse over the serious matter of constitution making process. As none of the organizations have reached these areas with these details regarding federalism, they found it very effective because they got opportunity to be aware on concept of federalism, recent CA proposal and specific issues to be taken care for the implementation of federal provinces. Participants from Ilam took workshop seriously and spent whole three days to make it more fruitful. However, Udayapur participants comparatively were less proactive and showed their reluctant to work out seriously on the specific issues.

Reaction of non-ethnic participants: Non-ethnic participants were not in favour of caste/ethnicity based provincial name. However, among the ethnic participants, some of them were really extremist; they want name and ruling power under their control. Non-ethnic participants were constantly trying to explore maximum space within these provinces. They feel if there is caste/identity based province, no any other caste groups has their rights over the power. In udayapur, strong anti-caste based voice was heard initially later when group split and discussed; interestingly they come to conclusion and agreed to put Kirant as the name of province. Ethnic leaders are attempting to convince people that Kirant or Limbuwan is not caste/ethnic name but it is civilization and culture of the people of this territory. If these called as non ethnic identity, there is also another question that who gets 'preferential' rights for these areas.

Participants' refusal on CA proposal related to provinces:

- Participants from both workshops deny the CA proposal of proposed province territory. Both province has own historical background to claim the additional districts beyond CA proposal. Limbuwan participants claimed the 9 districts of eastern region as Limbuwan state on the basis of historical background and similarly Kirant want to extend upto 16 districts.
- Proposed provincial capitals are not appropriate because they told that provinces are formed on the basis of identity but capitals are proposed on the basis of capacity. People want accessible area as their provincial capital. There are possibilities to create new city for capitals of proposed provinces. However, targeting the recent district headquarter is not appropriate for the future provincial government.
- Level of government administrative structure: CA should clearly come up with the forms of government even for the local level so that people understand it. There is still confusion that if there is autonomous area for tiny minority groups; whether this has village or municipal government or not? If it embodies that layer, people should face different level of governance system. Participants refused with confusing proposal.
- Participants refused with the ambiguous proposal rather focusing on the specific rights of minorities, Dalit and other excluded groups. From the both workshop, they have strongly invoiced to put customary law and practices to be legalized by this constitution.

Management of workshop: Logistic management of workshop is crucial to be successful. KYC in Ilam contributed their time to make program workshop. However, KRY representative were less active in Udayapur which resulted the dissatisfaction of participants somehow. Moreover, workshop team from UNDP side should stay in same place where program is organized so that participants do not get opportunity to criticize the management.

Mom Bishwakarma

PHOTOGRAPHS: SOME GLIMPSES OF THE WORKSHOP



