

**First Submission to the Thematic Committees of the
Constituent Assembly of Nepal
by National Indigenous Women Federation
2065**

**Submitted to:
Constituent Assembly Committees, Kathmandu, Nepal**

**Submitted to
National Indigenous Women Federation,
Samakhusi, Kathmandu**

Background

Problems and issues of indigenous women in Nepal are different than those of other women. Their problems and issues can be observed in three different aspects. The first one is on the basis of being women, the second is as being indigenous and the last one is as being indigenous women. Because they are women, they have similar problems and issues as other women have, which are originated from the patriarchal structure. Being as indigenous, they have problems created by the policy and law of the state regarding indigenous women. The indigenous women are not legally identified. Policies and programmes are not implemented with the perspectives of equality and equity with regards to them. Indigenous women are the conductor/carrier of almost of traditional knowledge, skill, innovations of indigenous peoples, and they have been continuing them. They have been maintaining the familial and social orders of the indigenous peoples with continuing the practice of language and culture. Indigenous women perform the role of peace promoter in the family and the society when needed.

After the great success of the 19 days long Popular Movement in Nepal in April, 2006, the election of the Constituent Assembly was also accomplished in April 10, 2008. Indigenous peoples, indigenous janajati women, dalit, madhesi, backward and other communities, who have been kept behind from the state for the centuries, are now active in collecting the suggestions and opinions to submit to the Constituent Assembly in order to ensure their rights in the new constitution. In this process, National Indigenous Women Federation, through her affiliated ethnic organizations, has also collected suggestions and opinions in various districts by organizing workshop programmes on “Democratic Dialogue”. The suggestions collected are as follows:

Committee on Fundamental Rights (and Directive Principles)

- The right to self-determination of indigenous peoples should be guaranteed. The identity of indigenous women should be recognized.
- Individual and group rights of indigenous women should be guaranteed. Indigenous women should be equal before the law and have the right to equal protection of the law.
- Mention the provision to safeguard the special needs and cultural relations of indigenous women with recognizing the right of communal ownership of indigenous peoples over the lands, which they traditionally occupy or use,.
- Reflect the rights related to indigenous women in the constitution as per guaranteed by the international laws to which Nepal is a state party.

- There should be special provisions for development of indigenous women in political, economic, social, lingual, cultural, educational, employment and health sectors.
- Proportional representation and leadership role should be ensured for indigenous women at various levels in the state. There should be provision for the representative that is selected through the traditional and representing institution of indigenous women in an original/unique process.
- Indigenous women should have the right to determine their own priority.
- Access of indigenous women to information and communication along with provision of the right to establish and run the information centre should be mentioned.
- The state should include the special provisions regarding protection and promotion of traditional knowledge, innovation and skill of indigenous women.
- There should be clear arrangement regarding access, participation and control of indigenous women in services, facilities and programmes of the state.
- The provision should be made for pre-informed independent consensus with the indigenous women in order to carry out any act relating to law, policy and programme, their implementation, evaluation and amendment, which may affect them.
- The state should make the special provision for economic, social, political, educational and cultural and health related development of highly marginalized and endangered indigenous women.
- There should be a provision relating to implementation of the agreements reached between the state and the indigenous peoples.
- The programmes related to the implementation of the rights mentioned in the international treaties and the agreements on women's rights (UN Resolution 1325, Beijing +10, CEDAW, MDGs, etc.), and formulation of policies and programmes (Legislating the violence against women act) should be run through the ethnic organizations of indigenous women following consultation and cooperation with them.

Special Recommendations

- The constitution should be written up considering the rights of indigenous women provided in the *UN Charter*, *Universal Declaration of Human Rights, 1948*, *ILO Convention no. 169*, *UN Declaration on the Rights of Indigenous Peoples, 2007*, *International Convention on Elimination of All forms of Racial Discrimination 1969*, *International Covenant on Civil and Political Rights, 1966*, *International Covenant on Economic, Social and Cultural Rights, 1966*, and *UN Permanent Forum* as the bases for minimum rights.
- Write the constitution with the objective to implement the agreement reached between the State and representative organizations of indigenous peoples, political organizations of indigenous peoples, and National Indigenous Women Federation.
- The provisions which may affect and concern to indigenous women should be mentioned in the constitution only after the consultation and consensus with the National Indigenous Women Federation. For this purpose, sufficient time should be provided.

Committee on the Protection of the Rights of Minorities and Marginalized Communities

- Since the indigenous women, on the basis of having specific types of language, cultural (customary) law and ethnic institution, social structure and separate identity, being the inhabitants of the related lands since a long ago or the generations or the inhabitants in existence before the formation of the state, nature worshipping (Pantheism) ethnicity that lies out of the Hindu religion and caste system, do not fall in the definition of minorities, therefore, identity as indigenous women should be recognized in the constitution.
- There should be provision ensuring access, enjoyment and control of indigenous women in the state structure and services/facilities, with equal status to the privileged women from other ethnicities.
- Provision of protection and promotion of mother tongue of indigenous peoples, and the right to education in own language for the children of indigenous peoples should be ensured. There should be provision of special education right to indigenous and marginalized women.

- Due to geographical inequality, indigenous women of remote and underprivileged areas are lagged behind as compared to the women in urban areas. Therefore, there should be provision of special rights for them.
- There should be special provision related to livelihood for indigenous women affected from the conflict and displaced from their lands.
- The rights of indigenous women should be mentioned in a separate provision in the constitutions of the federation and the state.

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Committee on Restructuring the State and Distribution of the State Power

- On the basis of historic relations of indigenous peoples with the lands and the historic state that they established there, the restructuring of the state should be made by establishing the ethnic autonomous state along with the right to self-determination. The right to self-governance of indigenous peoples should be implemented.

- The constitution should ensure independent, inclusive and proportional representation as well as leadership role for indigenous women at each structure of the state.
- There should be the provision of higher education in mother tongue for each individual or ethnicity. In addition, the provision should be made for protection of the endangered languages.
- The judicial system should be restructured on the basis of the judicial pluralism by recognizing the laws of traditional norms and values of indigenous women as well as considering the international laws also.
- The partnership of indigenous women along with right to self-determination should be established in the state. Any misrepresentation without consent from indigenous women should be prohibited.
- There should be provisions relating to special rights, reserved quota system, right against discrimination for indigenous women as well as equal status against other women and ethnicities in enjoyment, practice and protection of such rights.

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Committee on the Division of Natural Resources, Financial Rights and Public Revenue

- The rights of the indigenous peoples over the natural resources (Water, land, forest, grazing land and mine) should be ensured as they have close attachments with the resources.
- The state should make prior information and consultation with the concerned ethnicity or community in order to use the natural resources for development of the nation-state.
- The collective right to the lands and natural resources should be protected.
- The government should apply, in assistance from the concerned community, the ways/remedies of conservation and promotion of the environment in which they are living.
- The right to benefits from the use of natural resources should be ensured.
- The full achievement of the social, economic and cultural rights of the concerned should be promoted by respecting social and cultural identity of the concerned groups and their practice, tradition and institutions
- Appropriate special measures should be applied for protection of the concerned groups and institutions, property, labour, culture and environment.
- There should be the provision that use of natural resources in implementing any development work and project should be made with consent from the indigenous peoples by protecting their rights.
- Appropriate arrangement should be made from the government for proper preservation and promotion of traditional skill and knowledge.

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Committee to Decide on the Structure of the Constitutional Bodies

- A constitutional commission should be established for protection, promotion and assurance of the rights of indigenous women.
- Representation of indigenous women on the basis of ethnicity should be made in the policy making level of the state.
- Special quota should be allocated for indigenous women in the constitutional bodies.
- The indigenous women should be ensured with the right to information on any matter related to them or of public concern.
- Special arrangement regarding senior citizen allowance should be made for senior aged, helpless and single indigenous women.
- The state should protect, promote and develop the harmony of linguistic communities, respect their traditional geo-linguistic division, and the speaker of indigenous languages.
- The leadership role along with the identity should be ensured to indigenous women at each constitutional body of the state.

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Ethnic Organizations involved in the suggestions collection

1. Nepal Bhasa Misa Khala
2. Nepal Magar Mahila Sangh
3. Sunuwar Mahila Samaj
4. Nepal Kirant Rai Mahila Sangh
5. Tharu Mahila Jagaran Kendra
6. Nepal Tamang Mahila Ghedung
7. Thakali Mahila Sangh
8. Nepal Majhi Mahila Utthan Sangh
9. Nepal Kumal Mahila Samaj Sudhar Samiti
10. Walung Mahila Sangh
11. Nepal Gururng (Tamu) Mahila Sangh

12. Danuwar Mahila Samaj Sudhar Sangh
13. Nepal Sherpa Mahila Sangh
14. Nepal Pahari Mahila Bikas Sangh
15. Meche Mahila Utthan Sangh
16. Rajbanshi Mahila Sangh
17. Kirant Thakthung Mangena Chumlung
18. Lhomas Mahila Kalyan Manch
19. Palden Dolpo Mahila Sangh
20. Mugaal Adiwasi Janjati Mahila Utthan Sanstha
21. Byansi Souka Mahila Sangh
22. Chhantyal Mahila Sangh
23. Barhra Gaunle ChhimiGhyarcha Mahila Samaj Sewa
24. Tajpuria Mahila Utthan Sangh
25. Bhujel Mahila Samaj
26. Jiral Mahila Samaj Sewa
27. Nepal Gangai Mahila Parishad
28. Dhanuk Mahila Samaj
29. Dura Mahila Samaj

THE END