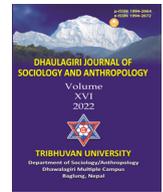


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Social Inequality and Ethnic Conflict in Nepal

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Abstract

Equality is perceived as the backbone of a democratic society. But inequality, whether horizontal or vertical and objective or perceived, exists even in a democratic society and Nepal is not an exception. The political mission of the Nepali state is to create an equal and inclusive society by eliminating all forms of discrimination and oppression created by the feudal, autocratic, centralized, and unitary state on the ground of origin, race, religion, caste, class, language, gender, and geographical specificities and protect and promote unity in diversity, social solidarity, and cultural harmony. To achieve its mission, the government has introduced various laws/bylaws and pursued various policy measures and development programs, such as social inclusion and affirmative action, as remedies for discrimination and inequality. However, these laws, policies, and programs have not led discriminated and marginalized communities to equality and social justice as they continue to remain discriminated against and unequal. In this paper, I argue that discrimination and inequality in Nepal is a structural problem, for Nepal is a hierarchically stratified society based on caste. In such a caste-based hierarchically stratified society, discrimination, inequality, and injustice cannot be removed easily without the state's strong intervention with appropriate social measures. In this context, all laws/bylaws, policies, and programs initiated and introduced by the government are to mask the problems of discrimination and inequality and disguise indigenous peoples and marginalized communities. They are part of remedies, not an end-all cure. These partial remedies are neither adequate nor effective and appropriate to address grievances of historically discriminated indigenous and other marginalized communities. As a result, Nepal is still in a state of ethnic conflict. I have substantiated my arguments with empirical evidence (primarily qualitative data), which I have collected from ethnographic field research. I have also used quantitative data from secondary sources which is essential to supplement my qualitative data.

Keywords: affirmative action, discrimination, inclusion, inequality.

Introduction

Equality is perceived as the backbone of a democratic society (Chandoke, 2012). But inequality, whether horizontal and vertical (Stewart, et al., 2005) or perceived and objective (Hug & Sekher, 2017), exists even in a democratic society like Nepal. The constitution of Nepal (2015) declares Nepal as an equal and inclusive country. It promises to end all forms of discrimination and oppression, including racial untouchability created by the feudal, autocratic, centralized,

and unitary state on the ground of origin, race, religion, caste, class, language, gender, and geographical specificities, and protect and promote unity in diversity, social and cultural solidarity, tolerance and harmonious attitude by embracing social diversity. It also promises to create an egalitarian state based on the principle of proportional and inclusive participation of excluded and marginalized communities in governance institutions to ensure equitable economy, prosperity, and social justice. The government has enacted sets of laws/bylaws, pursued various policy measures, and



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introduced development programs, such as social inclusion and affirmative action, to combat discrimination and inequality. However, these laws, policies, and programs have not led discriminated and marginalized communities to equality and social justice as they remain discriminated and unequal even after the establishment of federal democratic republics in Nepal. The constitution declares Nepal as a secular country. But it retains an ambiguity of secularism by defining secular to mean the protection of traditional religion and culture (i. e., Hindu religion and culture). The same is the case with language. The constitution recognizes all languages spoken by various communities in Nepal as the languages of the nation, but it gives special rights only to *Khasa* Nepali language written in *devanagari* script as the official language of Nepal. These are some examples of the constitution's discriminatory provisions that exclude indigenous peoples, Dalits, Madhesis, and Muslims from mainstream national political life and restrict them from accessing social opportunities and public services.

Caste in Nepal is a discriminatory social institution. Though caste was abolished by law in 1963, it persists in ideology and everyday practices. The persistence of the caste system has a direct bearing on the economy and politics of Nepal. Since the promulgation of the first *Muluki Ain* (national code) by the Rana regime in 1854, the political and economic power has been interlinked with the caste system (Bennett, 2006), benefiting only the so-called high caste hill Hindu Brahmans/Chhetris and certain Newar communities to control the governance, politics and the socio-economic resources. The official statistics reveal that the high caste hill Hindu Brahmans followed by the Chhetris and a few Newar elites, captured the upper tiers of the governance and the political institutions. The peoples' movement of 2006, popularly known as the *Janaandolan II*, changed the political scenario of political representation of diverse ethnic groups in the constituent assembly from 2008 to 2012. With an increasing political representation in the constituent assembly, there was a high possibility for an inclusive and democratic constitution to ensure the equal social and political rights of all citizens of Nepal. However, the government and major political parties did not foresee their political interests being served in the new constitution. Instead of promulgating a new constitution, they dissolved the constituent assembly. The second constituent assembly did not meet the expectation and aspirations of indigenous peoples and other excluded communities. The new constitution looks inclusive and progressive in form compared to the previous constitutions, but it is discriminatory and exclusionary in practice. The constitution provided the legal basis for perpetuating exclusion, discrimination, and inequality based on caste, class, ethnicity, language, religion, and geographical regions. Instead of resolving the issues of indigenous peoples, Mdhesis, Dalits, women, and other excluded groups, who Bennett (2006) characterizes as unequal citizens, the new constitution has fueled to spillover of their burgeoning/long-standing social and political grievances in the form of street protest.

Historical Context of Inequality

Nepal, as a modern political nation-state, was formed around the middle of the 18th century through the military conquest of Prithivi Narayan Shah. Before the territorial unification through military conquest, Nepal was divided into many petty states governed by tribal heads. In such petty states, societies were organized on a kinship basis and regulated through traditional rules and customary practices (Gurung, 1994). The nature of such a society was more or less egalitarian, and the relation of production was equitable. Because the concept of caste and class was almost non-existence, inequality among various ethnic communities based on defined identity was absent. After the territorial unification of Nepal by the Shah rulers of Gorkha, the chieftains of various ethnic communities (mainly Gurungs and Magars) were supplanted and their egalitarian types of social relations were broken by the dominant Hindu caste peoples in a significant way (Gurung, 1994; Pradhan, 1991). Though the creator of modern Nepal, Prithivi Narayan Shah, declared Nepal as the common garden of four varna and 36 castes, he established Bahuns and Chhetris as the backbone of the caste structure. He started the process of Hinduization through the imposition of the Hindu religion, culture, norms, values, and other customary practices. To consolidate his political power, he tried to homogenize diverse castes and communities through the use of *Khasa* Nepali language as a common language of all communities and protecting the cow as the symbol of the Hindu religion. The territorial unification and subsequent political consolidation over the centuries combined the processes of *sanskritization* of indigenous peoples and other non-Hindu communities in a progressive manner.

After the unification, the national policy of the Hindu rulers was to organize all indigenous peoples according to the principle of Hindu law. In doing so, Jung Bahadur Rana promulgated the *Muluki Ain* in 1854 and stratified Nepali society as per the Hindu caste hierarchy. Thus, the Bahuns as priests were put at the top, Chhetris as warriors at the middle, and dalits as *sudras* at the bottom of the caste hierarchy. Indigenous peoples were assigned a social space at the third tier of the caste hierarchy naming them as *matuwali* (alcohol-drinking peoples) and they were divided into *masinya* (enslavable) and *namasinya* (non-enslavable) communities to degrade their social status within the hierarchy of Nepali society structured according to the Hindu *varna* system (Hoffer, 1977). Thus, the new legal code provided indigenous peoples with a rigid and permanent caste hierarchy in the Hindu social system. Similarly, dalits as *sudras* were divided into touchable and untouchables. The *Muluki Ain* not only classified the social groups into four-fold caste hierarchies, *Muluki Ain* also prescribed their duties and assigned their social status. Then onward, it restricted their access to social opportunities. Moreover, the Hindu rulers imposed Nepali (also known

as *Khasa Kura*) as the lingua franca of the country which transformed state interactions with many Tibeto-Burman language-speaking indigenous peoples of Nepal and inculcated them the idea of a new social order based on the hierarchical principles of Hindu religion (Gurung, 1994). The Hindu values, morals, and merits were enforced to provide the support base for the despotic regimes. The territorial unification of Nepal, with the military campaign, spread *Khasa kura*, from west to east Nepal, extinguishing the mother languages of indigenous peoples (Malla, 1989). After 1933, *Khasa kura* (also called then Gorkhali) was renamed Nepali *bhasa* and Nepali *bhasa* was conferred the official status of national language in 1932 for the use of official business. Thus, the codification of Nepal’s first *Muluki Ain* in 1854 provided legal recognition to the caste system which created perpetual conditions of caste-based social inequality in Nepal.

Indigenous peoples experienced a new form of domination and hegemony during the *Panchayat* regime (1961-1990).

Table 1. Classification of Caste as per the *Muluki Ain* of 1854

| Hierarchical Strata | Caste Classification | Social/Cultural Groups |
|---------------------|---|--|
| A | Priest or Wearers of Holy cord | Upper caste Bramans, Newar Brahmins |
| B | Warriors/Rulers | Chhetris, Thakuris |
| C | <i>Matwali</i> (Alcohol Drinkers) <i>Janajatis</i> (Indigenous Peoples) | Enslavable <i>Matwali</i> Chepang, Gharti, Kumal, Hayu, Bhote, |
| | | Unenslavables <i>Matwali</i> , Gurungs, Magars, Newars |
| D | <i>Sudra/Dalits</i> | Impure but Touchable, Lower caste Newars, Muslims, Christians |
| | | Impure and Untouchable, Newar Poda |

Source: National Code 1854

The new political system called *Panchayat* headed by an absolute monarch was engaged in a new project to attain national integration. Rather than developing a new model of ethnic pluralism, the Hindu rulers of the new regime engaged themselves in officially promoting ethnic homogenization by imposing the monolithic concept of one nation, one culture, one language, one religion, and one national identity. Under the *panchayat* regime, Nepali people, for the first time, began to think of themselves as citizens (Bennett, 2006). But to become a citizen of Nepal, one had to speak *Khasa* Nepali language, observe the caste system, follow the Hindu religion and wear Nepali dress (it is still imposed in everyday life). *Parbate* (hill) Hindu values became a pragmatic model for creating national culture. Under this type of cultural model or cultural accommodation which Pfaff-Czarnecka (1997) calls the “nationalistic model”, indigenous peoples were forced to share a common culture. Sharing cultural elements of unity

was proclaimed by suppressing differences. Any claim to ethnic identity was reduced to political rebellion during the *Panchayat* period because it was supposedly considered to be threatening to nationalism.

In many cases, *Panchayat* was even more rigid and orthodox. The polity was dominated by Bahuns, Chhetris, and a few urban Newar elites. The impact of the state policy of Hinduization and homogenization of cultural diversity threatened identities and severely constrained indigenous nationalities to practice and promote their languages, cultural tradition, and religion.

Political Participation

The establishment of multiparty democracy in 1990 provided an opportunity for articulating the pains and historical injustice and long-standing grievances of indigenous peoples in Nepal. The promulgation of a new constitution in 1991 promised to treat Nepali citizens equally before the law.

Nepal was declared a multi-ethnic, multi-cultural, and multi-lingual democratic, independent, and indivisible sovereign state. For the first time, the constitution recognized Nepal as a plural society. Thus, in comparison to the constitution of the *Panchayat* era, the constitution of 1991 was progressive. At least in principle, the new constitution guaranteed civic rights, freedom of speech, organization, religious practices, and languages. The multiparty democracy also gave indigenous peoples an impetus to quest for equal participation in national politics and policy-making processes. Nevertheless, the multiparty democracy failed to address indigenous peoples’ hope to reduce cultural discrimination, social injustice, economic inequalities, political domination, and human rights violation. The declaration of Nepal as a Hindu kingdom legally prohibited indigenous peoples from practicing their religions. The state recognition of *Khasa* Nepali lingua-franca of the nation discouraged the protection and promotion of languages of indigenous peoples and other

communities. They were underrepresented in political institutions (less than 25%) and governance (10%). Many of the indigenous communities were deprived even of the basic social services of health and education (Gurung, 2009). Thus the political change of 1990 raised high hopes and aspirations of indigenous peoples, but it failed to address them. The major political parties who ruled the country, turn by turn, ignored addressing the multifaceted problems of indigenous peoples. Inequality, injustice, exploitation, oppression, and discrimination prevailed in all spheres of the social, cultural, economic, and political life of indigenous peoples. Social exclusion and cultural discrimination based on ethnicity, language, religion, gender, class, and geographical regions pushed indigenous peoples, Madhesis, Dalits, Muslims, and other minorities to the verge of poverty, inequality, and further marginalization. It instigated these excluded and deprived communities to organize under various ethnic and regional organizations to consolidate their forces for political and cultural rights. In this context, indigenous peoples formed an umbrella organization called the Nepal Federation of Indigenous Nationalities (NEFIN) to provide collective leadership to their cultural and political movement.

In the beginning, indigenous peoples' were concerned about establishing their legitimate cultural identity. Thus in the 1990s, they raised the issues of linguistic rights, such as education in the mother tongue, religious freedom, and cultural revitalization. As the indigenous peoples' movement progressed, the demands of indigenous peoples were geared toward their political rights. In addition to secularism, linguistic freedom, and cultural revitalization, indigenous peoples began to express political demands, such as proportional representation in the policy-making processes, special reservation in education, health, civil services, and other employment opportunities, ethnic autonomy based on the principle of the right to self-determination, customary rights over lands, forests, and other forms of natural resources, ratification of international laws and conventions, such as International Labour Organization Convention (ILO-169) and United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) that ensure indigenous rights. In the beginning, their demands did not attract any attention from mainstream political forces. But the Maoists were able to capitalize on these agendas of indigenous peoples in favor of "Peoples' War" and included these agendas into their 40-point demands, which they submitted to the government of Nepal led by Sher Bahadur Deuba on Feb. 2, 1996. Four of the 40-point demands (ethnic autonomy, secularism, equality to languages and end of ethnic oppression) of the NCP (Maoist) converged with the agendas of indigenous peoples. The Maoists put these demands even during the peace talks with the government in 2001 and 2003 (Pathak, 2005, p. 129). The government, however, did not meet any of their demands. Instead, the government followed repressive measures, including *Kilo Sierra*

II killing hundreds of lives. Human Rights Year Book 2004 of INSEC reports that by the end of 2003, a total of 8265 innocent people lost their lives and among them, indigenous peoples count 21.33 percent (cf. Gurung, 2005, Poudyal & Deuja, 2005). INSEC's Human Rights Year Book report (2004) also reveals that more than 300,000 people were displaced from their homelands and during ten years (early 1996 to early 2006) about 16000 innocent peoples (the majority of them were indigenous peoples) lost their lives, 40,000 peoples were displaced internally. The violation of human rights was even more serious.

The political situation of Nepal began to deteriorate even after the restoration of democracy in 1990. People were left with bitter experiences from corruption, administrative carelessness, impunity, and government atrocities. The government failed to address peoples' needs, establish law and order and provide public security. As a result, frustration was everywhere. King Gyanendra took undue advantage of the deteriorating political situation of Nepal. First, he dismissed the elected government on October 4, 2002. He then dissolved parliament in May 2003, took all political and administrative powers into his hands on Feb. 1, 2005, and ruled the country directly by himself. He declared a state of emergency and suspended all political and human rights. The political leaders were arrested. The king's direct rule was a great setback to the parliamentary political parties, as the king blamed them for the corruption, insecurity, violence, and weakening of national unity and sovereignty. Due to the king's direct rule, the peace and prosperity of the country were at stake as the political conflict escalated during king's direct rule. It was reported that Maoists alone killed more than 450 people after the king took over the political powers at his hands. Realizing the critical political situation of the country, the seven parliamentary political parties (SPA) agreed to ally to establish democracy by reinstating the dissolved parliament as the first entry point and holding the election of a constituent assembly as an exit point for resolving the ongoing conflict and establishing peace (Upreti, 2006, p. 344). It necessitated the Seven Political Party Alliance to sign a 12-point understanding with NCP (Maoist) in December 2005. The major thrust of this understanding was to establish peace by establishing absolute democracy and ending the autocratic monarchy. After signing the 12-point understanding, the political parties called upon civil society, professional organizations, various wings of political parties, peoples of all communities and regions, media people, and intellectuals to actively participate in the peaceful movement launched based on an understanding centered on democracy, peace, and prosperity, forward-looking social change and country's independence, sovereignty and national pride (Upreti, 2006, p. 347).

After the royal takeover, indigenous people were engaged in overt political activities. When the king asserted his control of the political and administrative power, indigenous peoples began to work with other civil and

political organizations to restore democracy. For indigenous peoples, it was an opportunity to pressure political parties to adopt their cultural and political agendas recognized and upheld in New Nepal. Therefore, NEFIN, like a political force, staged a street demonstration, took part in the sit-in, rallies, and marches in defiance of the curfew. During the emergency, the king's government disallowed indigenous people to communicate in their mother tongue and gather in community places to perform cultural programs and religious rituals. The government also made it an official requirement for indigenous peoples' organizations to register in PAN and VAT and take permission from the local government authority to organize any of their cultural activities. The kings issued many ordinances, including the Terrorist Activities and Destructive Ordinance (TADO). They amended various laws which hindered the growth and development of multiculturalism – a concept of democracy in which cultures are presented as equals in the public domain and diversity of cultures are promoted by eliminating culture-related discrimination (Subba, 2006, p. 34). For NEFIN, the autocratic monarchy was the main hurdle for indigenous peoples' cultural, social, political, religious, and linguistic rights. Indigenous peoples felt cultural suffocation during the king's direct rule. It prompted them to conflate their agendas with the agendas of political parties to fight in a battle for democracy. Concurrently, they warned the political parties that the West Ministerial type of democracy in which "winners take all" cannot guarantee peace and prosperity in the country because such a democracy is always exclusionary. Indigenous peoples with strong demands for inclusive democracy, and proportional representation, actively participated in the *jana andolan-II*. During the movement, they also strongly reinforced their long-standing demand for state restructuring along the line of federalism based on ethnic identity and the right to self-determination. In addition, they also demanded proportional representation in the constituent assembly by adopting a balanced electoral system. With these demands, they mobilized all member organizations of NEFIN and many other non-member organizations, including various political parties affiliated Indigenous Peoples' Joint Struggle Committee (IPJSC), to support the democratic movement. During the *jana andolan-II*, they concentrated their street protest in Kathmandu and various parts of the country. In Kathmandu, the movement of indigenous peoples fueled the movement of political parties. They broke the curfew imposed by the king's government and often crossed the restricted zones.

The *jana andolan-II*, which lasted for 19 days, forced the king to relinquish his power on April 24, 2006. The *janajandolan II* also dismantled the old unitary, centralized and feudalistic state regime. The dissolved parliament was reinstated, and the first meeting of the reinstated parliament unanimously adopted the resolution that declared Nepal a secular state. It ended, at least in principle, the hegemony of the Hindu religion and paved the way for multiculturalism.

The ruling coalition formed an interim government which drafted an interim constitution ensuring the restructuring of the state to eliminate all forms of discrimination and historical injustice. The interim constitution also fixed the time of the election of the constituent assembly. The government and the NCP (Maoist) signed a 21-point comprehensive peace accord on November 21, 2006. The Maoists joined the legislative parliament in January 2007 and the interim government in April of the same year. The Maoist combatants were put in cantonments and their weapons were deposited in the containers under the supervision of the United Nations Mission in Nepal (UNMIN). Thus, the *Jana andolan-II* ended not only the old autocracy and dismantled the old unitary, centralized and feudalistic state but also the 10-year-old Maoist armed conflict which had engulfed almost all parts of the country.

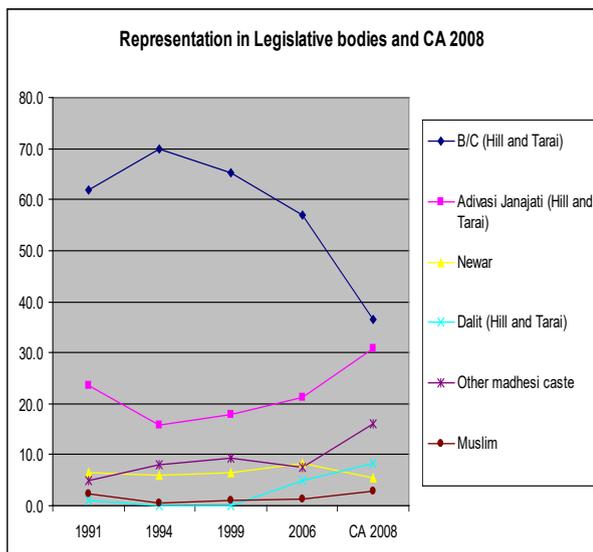
Conflicts also characterize the post-democratic period. The major task of the interim government was to establish peace, hold elections of the constituent assembly and restructure the state. These were daunting tasks that needed serious commitment. But the ruling political parties did not take them very honestly and seriously. The interim constitution, which indigenous peoples and other deprived communities had expected to be fair and accommodative, did not accommodate the major demands of indigenous peoples. Instead, about four dozen constitutional and legal provisions, including the provision of language, appeared (still) discriminatory against the rights of indigenous peoples. This instigated indigenous peoples to launch another stage of protest against the interim government. At the same time, Madhesi Janadhikar Forum started a Madhes uprising in several districts of east Tarai, demanding the federal government. Many peoples, including Maoist supporters, lost their lives during the Madhes uprising. Indigenous peoples' protest in Kathmandu and Madhes uprising in the Nepal Tarai exerted tremendous pressure on the interim government led by Girija Prasad Koirala to announce the federal administrative system in Nepal through the second amendment of the interim constitution in 2007.

Despite their commitment, the interim government failed to hold the election of the constituent assembly in the stipulated time of June. Indigenous peoples persistently demanded timely elections, ensuring proportional representation in the constituent assembly. They demanded to amend the interim constitution to adopt a proportional electoral system. In response to the demands of indigenous peoples, the government of Nepal invited NEFIN and IPJSC to hold a dialogue with the government. After several rounds of dialogue, NEFIN and IPJSC signed a 20-point agreement with the government on August 7, 2007.¹ The first three points of the agreement are directly related to the electoral system. Although the government did not fully agree with the demands of indigenous peoples for a proportional electoral system, they agreed to adopt a

1. See annex 2 for details of 20 point agreement..

mixed electoral system. The fourth point of the agreement is related to the restructuring of the state through the formation of the state restructuring commission, by which the government agreed to restructure the state based on ethnicity, language, and geographic regions. They also decided to form a state restructuring commission to provide recommendations to the government for state restructuring. It is the first agreement indigenous peoples ever have had on equal footing with the government dominated by the so-called Hindu high caste. In 2008, the first election of the constituent assembly was held. NEFIN organized a nationwide election campaign calling indigenous peoples to vote for indigenous candidates. The national election campaign and the 20-point agreement signed with the government helped indigenous peoples elect 218 members (81 from the direct election and 137 from proportional and nomination) from indigenous communities in the 2008 general election of the constituent assembly. This is the first time in the political history of Nepal that indigenous peoples' representation in the law-making bodies almost equaled the total percentage (37.2%) of the indigenous population in the 2001 census. Although these CA members were elected on an ideological basis, and therefore, they were not directly accountable to the indigenous communities, it was a major shift in the political history of Nepal, as the political representation of indigenous peoples from 1959 to 1999 did not go beyond 25 percent.

Figure 1: Caste/Ethnic Representation in Constituent Assembly 2008



Source: Secretariat of the Constituent Assembly 2008

The major task of the constituent assembly was to draft a constitution accommodating the demands of indigenous and other excluded communities. But the constituent assembly could not finalize the constitution due to severe

political debate on the ethnic identity-based political boundaries of federal provinces. Indigenous peoples demanded to the design of a political boundary based on ethnic identity. Irrespective of their political affiliation, two-thirds of Members of the constituent assembly from indigenous communities, Madheshis, and Dalits supported the identity-based federal structure. Ironically, the leaders of the Nepali Congress and United Marxist-Leninists (UML) were against the identity-based federal structures in the name of communal harmony, nationality, sovereignty, and territorial integrity. The leaders of NCP (Maoist) remained ambivalent. As a result, the constituent assembly could not finalize the constitution. Instead, they dissolved the constituent assembly. It was a great setback to Nepali people in general and indigenous communities in particular.

In 2013, the second election of the constituent assembly was held. By all means, the major political parties manipulated the election in their favor. The candidates from indigenous peoples and other marginalized communities who advocated for an identity-based federal structure and supported the indigenous movement were badly defeated in the election. Candidates from indigenous communities who won the election, either remained silent or ambivalent. Some of them went beyond the limit of silence and advocated identity as an irrelevant issue in Nepal. It made the voices of indigenous peoples unheard inside the constituent assembly. After the election, indigenous peoples were divided into many political camps. It broke street agitation of indigenous peoples. At the same time, the great earthquake of April 2015 and its subsequent aftershocks left many Nepali peoples socio-psychologically in a traumatic condition. Particularly, the earthquake severely hit the indigenous areas and greatly affected indigenous peoples. It diverted the attention of indigenous peoples from their political demands to humanitarian and social works. Indigenous leaders remained engaged to mobilize their forces to rescue work and manage humanitarian assistance to earthquake victims. Taking undue advantage of the critical situation of the country, the four major political parties (Nepali Congress, UML, the then NCP (Maoist Center), and Madhesi Janadhikar Forum (Democratic) hastily promulgated the constitution of Nepal (2015) through fast track methods. It was a great political deception to the Nepali people.

Though the ruling political parties proclaimed the constitution of Nepal as the most democratic and progressive constitution in the world, the constitution is retrogressive and undemocratic from the indigenous peoples' point of view. The constitution declares Nepal as a secular state, but secularism carries the religious values of Hinduism and revitalizes the age-old Hindu religion-based social and cultural values. It protects the cow as a symbol of a national animal and prohibits certain indigenous peoples, Muslims, and many other beef-eating communities from their rights to eat beef. It

was a violation of cultural rights by law. The constitution recognizes all languages spoken in Nepal as the nation’s language, but it provides special rights to Khasa Nepali language as the language of official use. The constitution-making processes violate the principle and procedure of democracy. It has killed the spirits of multiculturalism, identity-based federalism, and inclusive proportionalism. It does not recognize the identity, autonomy, and rights to self-determination demanded by indigenous peoples and once agreed upon by the government. The constitution also does not guarantee a proportional electoral system. Indeed, it has reduced the percentage of proportional representation from 58 to 40. The non-compliance with the proportional electoral system has certainly lessened the chance of indigenous peoples being elected to law-making bodies. It is a political strategy of ruling Hindu Brahman and Chhetri communities to reassert their political domination over indigenous and other excluded communities. In many ways, the constitution is divisive, discriminatory, and exclusionary. It has perpetuated cultural discrimination, political domination, social inequality, and economic disparities as they were before. It is, therefore obvious that indigenous peoples, Madhesis, Dalits, Muslims, other marginalized communities, and some political parties have shown their disrespect to the constitution and they have been observing Asauj 3 (September 20), the day of the promulgation of the constitution, as the Black Day in Nepal.

As per the provision of the new constitution, the first general election of the federal parliament was held in November/December 2017. For this election, the UML and CPN (Maoist Center) allied to jointly contest the election. As a result, the election has not only provided UML and CPN (Maoist Center) with a two-thirds majority in the parliament, it has also reversed the ethnic/caste representation in the parliament. While the Brahmins and Chhetris had lost many seats in the 2008 election, they now regained their earlier position by securing 36% of the seats in the parliament. Indigenous peoples, Madhesi, Dalits, and Muslims have lost their previous position. Janajatis, who secured almost 37% of seats in the 2008 election, secured only 20% seats. Similarly, Madhesis had secured 18% of seats in 2008, but they have now gone down to 15%. Dalits and Muslims had 9 and 5 percent seats in 2008, respectively, but in 2017 only 4% and 2% seats in the parliament. The constitution allocates 33% of seats for women, but the very constitution limits them to 23% of seats in the present parliament. Similarly the government has been formed disproportionately. The implication of disproportionate representation in the parliament significantly affects policymaking and policy-implementing processes resulting in exclusion and inequality. In short, even the constitution of the federal democratic republic Nepal has made indigenous peoples, Madhesi, dalits, and women what Bennett (2006) characterizes as “unequal citizens” of Nepal.

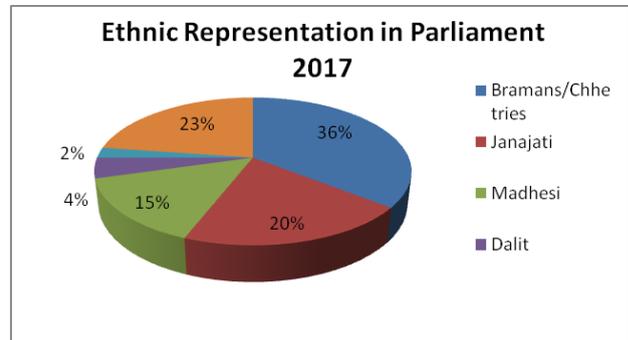


Figure 2: Caste/Ethnic Representation in Parliament 2017
Source: Secretariat of the Federal Parliament 2017

Social Deprivation

Nepal is a multi-national, multi-language, multi-religious, and multi-cultural society. The national census report of 2011 has enlisted 125 caste/ethnic groups based on the self-assertion of their cultural identity. They are broadly divided into five major social groups; Hill and Tarai caste groups, Hill and Tarai indigenous peoples, Hill and Tarai dalits, Muslims, and others. The hill caste groups consist of Bahuns/Chhetris and constitute 31.20% of the total population of 26,494,504 (CBS, 2011). Tarai caste groups consist of Tara Bahuns, Jha, Mishra, Yadav and they constitute 15.30% of the total population. By far, the largest social groups are Indigenous peoples called adibasi janajati. They include 59 groups² constituting 35% of the total population. Similarly, Dalits and Muslims constitute 12.60% and 4.40% of the total population, and 1.30% of the people are unidentified.

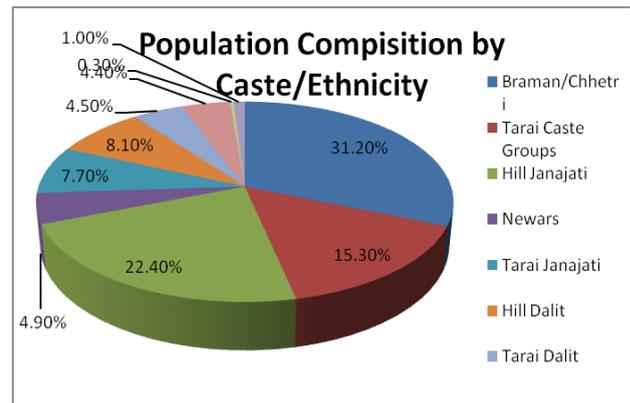


Figure 3: Population Composition of Nepal by Caste/Ethnicity.
Source: CBS 2011

The national census report has also enumerated 123 languages broadly classified into four language families. The first is the Indo-Aryan language family and 37 languages

2. The government of Nepal has officially identified 59 indigenous peoples and they are legally recognized by the Act of 2002. The High Level Task Force led by Dr. Om Gurung has revised the official list of 59 indigenous groups and recommended 81 indigenous groups for government’s approval.

fall under this family, with speakers numbering 21,748,043. The second is the Tibeto-Burman language family and almost all languages (63) spoken by indigenous peoples fall under the category of the Tibeto-Burman language family. The third one is the Austro-Asiatic language family and two languages (Khadiya and Santhali) fall under this family. Only one language (Jhangad/Urao) falls under the Dravidian language family. The language of Raute, a small nomadic group numbering about 150, has been classified as a “language isolate”. There are also hitherto unidentified sign and foreign languages that certain groups of people speak (Tamang et al., 2014). Similarly, the religions of Nepal have been classified as Hindu, Buddhism Kirat, Muslim, Christian, Bon, and others. With state support, the Hindu religion predominates over other religions in Nepal.

Nepal’s rich social and cultural diversity is characterized by cultural discrimination and social inequality. Diversity is a social asset of Nepali society. If tapped properly, diversity can contribute to social development. The diversity in Nepal, however, is considered a social liability and a problem for development. Historically, the Hindu rulers in Nepal have deliberately attempted to homogenize Nepal’s social diversity by assimilating them into the mainstream Nepali society dominated by Hindu social values. Imposition of the Hindu religion and insertion of Khasa Nepali language to non-Hindu and non-Nepali speaking communities are planned strategies for their attempt at homogenization. In this context, the constitution has played a crucial role in defining secularism in protecting traditional Hindu religion and culture. In the same vein, the constitution has conferred special privileges to Khasa Nepali language as the language of official business and a medium of education. This has been a determining factor for educational inequality among indigenous peoples and other non-Nepali language-speaking communities. Therefore, in Nepal’s context, social deprivation is directly linked to social diversity. Based on origin, caste/ethnicity, class, gender, language, and religion, indigenous peoples and many other marginalized communities are deprived of their access to basic social services of health and education and employment opportunities.

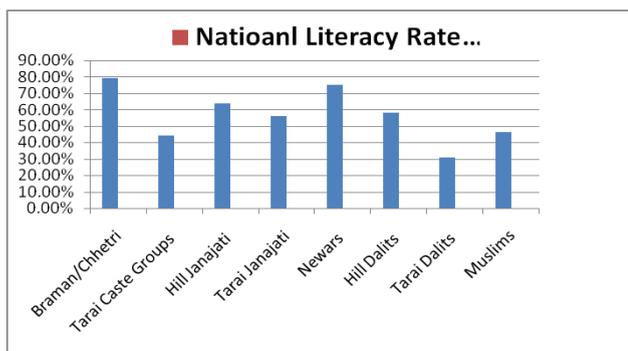


Figure 4: Literacy Rate in Nepal

Source: CBS 2011

Education is the basic human right of every citizen.

Literacy is one of the indicators of human development. While literacy provides access to information, educational attainment provides scope for social opportunities. But educational attainment among indigenous and other marginalized communities is very low and most of their workforce is labor oriented with marginal output (Gurung, 2006). As per the national census of 2011, the literacy rate in Nepal is 65.9%. Nepal is still far behind the national target of 85% of literacy by the year 2012 (Gurung et. al., 2012). The literacy rate also varies significantly among various ethnic groups. For example, the literacy rate among Hill Brahmins and Chhetris is 79 percent, whereas it is only 31 percent among the Tarai Dalits. The literacy rate among indigenous peoples hardly meets the national average (63%). It also varies within indigenous groups. Within indigenous groups, Newars and Thakalis have the highest percentage of literacy rate (80%) followed by the Gurungs (68%), Magars (67%), and Rais (66%). Whereas Kumal, Majihs, Chepangs, and Sunuwars have the lower literacy rate (45%) among hill indigenous peoples. The literacy rate among Muslims is 42%. Despite the national school enrollment campaign by the government, more than 300,000 school-going-age children do not attend school. Most of these children come from Tarai Dalits, Muslims, Janajati, and other low-income families. The constitution ensures basic education is the fundamental right of every citizen, but it is not accessible and affordable to all. Low-income families cannot provide food for their children, pay annual school admission fees, buy school uniforms and books and manage other logistics. So their children cannot go to school regularly. Recently, the gross enrollment rate of school-going age children (6 yrs and above) from these communities at the primary school is encouraging (more than 100%). Still, their dropout rate is extremely high as they move to upper-level schools. It has hindered the educational attainment of indigenous peoples, Tarai Dalits, and Muslims. The government’s faulty educational policy, together with the conflation of poverty and language, has been identified as the major factor of less percentage of educational attainment. Not surprisingly, education has created a condition of social inequality in Nepal and thereby deprivation of access to social opportunities for poor and marginal communities. The business of private boarding schools is flourishing in Nepal. But poor people cannot send their children to private boarding schools. Because of the degrading quality of education in public schools, students produced in public schools cannot compete with those produced in private boarding schools. It restricts them from their access to civil services and other employment opportunities. Thus, education has also widened the social gap of inequality among indigenous peoples and other marginalized groups.

Improved access to essential health services is another target of the Nepal government. Accordingly, the Second Long-term Health Plan 1997-2017 stipulated making essential health care services (EHCS) available in all

districts to 90 percent of the population living within 30 minutes of walking. While measuring households' access to healthcare services in terms of distance to the nearest government healthcare facilities, and only 58% of the household can reach the nearest government health facilities within 30 minutes walk (Gurung et. al., 2012). Compared to groups of Hill origin, Tarai Bahun/Chhetris, Tarai Muslims and Tarai indigenous peoples have better access to healthcare services. The better health service facilities among these communities in Tarai are attributed to the physical access to Tarai/Madhesh areas. In this regard, Hill Chhetris and Hill Dalits have lower access to healthcare services due to the difficult geographical terrain. Except for Thakali, who are ranked as an economically better-off indigenous community in the hill, other hill indigenous communities such as Tamang, Baramu, Chepangs, and Magars have the lowest health service facilities.

As per the Millenium Development Goals (MDG) 2015, the Nepal government prepared Water Resource Strategies 2002 and Rural Water Supply and Sanitation National Strategy 2004, intending to provide safe and adequate quantities of drinking water, focusing particularly on disadvantaged and backward communities. But the social inclusion survey conducted by the Central Department of Sociology/Anthropology at Tribhuvan University in 2012 shows that Tarai Bahuns and Chhetris, Tarai indigenous peoples and Tarai other castes, Tarai Muslims as well as Hill Brahmins and Newars have better access to safe drinking water, Hill indigenous peoples, Hill Dalits, and Madhesi Dalits have the least access to safe and adequate drinking water. Conversely, Tarai Dalits, Tarai indigenous peoples, Madhesi other castes, and Muslims have low access to hygienic sanitation facilities (CBS, 2011). Thus, there is a great variation between social groups in terms of safe drinking water and sanitation. Other household amenities, such as radio/television, mobile phones, and electricity, vary among various social groups, particularly Dalits, indigenous peoples, and Muslims. Thus, inequality among social and cultural groups still exists in Nepal.

Economic Disparities

Despite the half-century of planned development efforts, Nepal lags behind in the global economic growth and development race. Some miracles have occurred in the political arena, but negative factors still outweigh positive economic stimuli (Subba et al., 2014). If measured from economic development indicators, Nepal is still one of the poorest countries in the world. The composite human development indices show that Nepal falls under 149 of the 189 counties in the world (UNDP Human Development Report 2018). Although the government of Nepal is proud to declare the drastic reduction of the poverty rate from 43% in 1995/96 to 32% in 2003/04 to 25% in 2011 to 18% in 2018, the majority of Nepali peoples are still poor.

The incidence of poverty is dispersed disproportionately

among ecological belts, development regions, and caste and ethnic groups. Bahuns and Newars have the fewest households on the poverty line (10%) and the Tarai middle caste also has a low proportion under the poverty line. In contrast, almost half of the Dalits live in poverty (43%). The incidence of poverty among hill indigenous peoples (25%) and Tarai Muslims (19%) is significantly higher than the national average. There is also a significant gap between rural and urban poverty. More than 27% of Nepali people cannot meet their daily consumption needs in rural areas, whereas only 15% in urban areas (NSSL III, 2010/11).

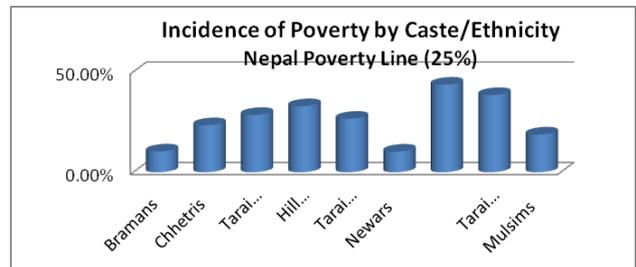


Figure 5: Incidence of Poverty by Caste/Ethnicity
Source: NLSS 2010/11

The per capita income of Nepal is just above the per capita income of conflict-prone Afghanistan (Rs. 26,000) in South Asia. The distribution of per capita income among various ethnic groups in Nepal is disproportionate. The per capita income of the Brahmans is the highest (63,234) among many other castes/ethnic groups, whereas the Dalit has an insignificant amount (24241) as their per capita income.

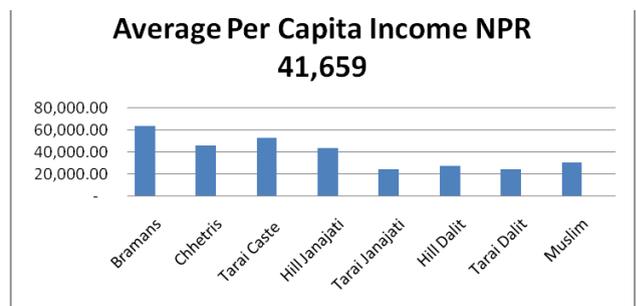


Figure 6: Average Percapita Income by Caste/Ethnicity
Source: NLSS 2010/11

Nepal's average household per capita consumption rate is Rs. 41,659 (NSSL III 2010/11). But there is a wide gap between the rich (78,504) and the poor (13,168). On average, Brahmans have the highest per capita income of Rs. 63,234 followed by Tarai Caste groups (52,472), Chhetris (46,079), Hill Indigenous peoples (43,561) Muslims (30231) and Hill Dalits (24,241).

There are various reasons for poverty in Nepal. The major factors of Nepal's poverty are slow economic growth, distributive injustice, ineffective and costly public service delivery, lack of good governance, rampant corruption,

lack of employment opportunities, lethargic bureaucracy, and discriminatory social and cultural practices. The land is the major source of the economy in Nepal. More than 76% of Nepali people depend upon agriculture for their livelihood. But the per-household landholding size among indigenous peoples and Dalit communities is less (0.6ha) than the national average of 0.7ha (NSSL III 2010/11). Many of the Hill and Tarai indigenous peoples were landlords until recent decades. Until 1964, Rais and Limbus in the eastern hills were landlords. They practice a communal land tenure system known as kiptat (Regmi, 1971). Under this kiptat system, the communities held lands collectively and distributed them among kin groups as per their needs. Kiptat land tenure system was abolished in 1964 and distributed to non-Limbus under raikar system. It fragmented the lands and made the kiptat land-holding communities poor.

Similarly, the lands owned by the Tharus in the Tarai Madhesh were confiscated and distributed to priests, civil servants, and royal nobilities under gutihi, birata and rakam system by the Rana and Shah rulers. The abolition of kiptat land tenure system, distribution of lands to priests, civil servants, royal nobilities, massive migration of hill peoples to Tarai/Madhesh after the malaria eradication in 1956, and conversion of land into raikar system to appropriate land taxes made many hills and Tarai/Madhesh indigenous peoples landless. At present, indigenous peoples like Chepangs, Kushbadiya, Kisan, Bote, Majhi, Raute, Kusunda, and certain Tarai Dalit, such as Dom and Halkhar have become almost landless peoples. They depend primarily upon forest resources for their survival. But the government’s restriction on their access to natural resources has impoverished them.

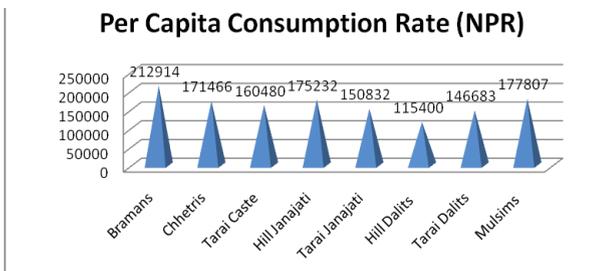


Figure 7: Per Capita Consumption Rate by Caste/Ethnicity
Source: NLSS 2010/11

Inequality exists in civil services as well. Historically, employment in civil service has been the serfdom of Hindu caste groups. Hill Brahmins and Chhetris dominate the civil services. Except for Newars, indigenous peoples, Madehsis, Dalits, and Muslims have minimal access to civil service opportunities. To make civil service sector opportunities equitably accessible to all 45% of seats in the civil services have been reserved and discriminated against disadvantaged groups under social inclusion policy measures in the constitution. But the Nepal government’s

Ministry of the General Administration and Public Service Commission remained insensitive to these groups. It violated the constitution’s provision by recruiting civil servants in 2019 without much care for the reservation policy. Such an unaccountable and unconstitutional act of the Ministry of General Administration and Public Service Commission has fueled the grievances of indigenous peoples, Madehsis, Dalits, and Muslims. Furthermore, the designing irrelevant questions being asked in the examination and the use of Khasa Nepali language are structural barriers that restrict indigenous peoples, Dalits, Madehsis, and Muslims from accessing civil services. As a result, the presence of these communities in public services is still insignificant. It forces these communities to migrate to foreign countries for better socio-economic opportunities. At present more than a million Nepali youths, particularly from indigenous peoples, are wandering around the world as migrant workers and sending remittances to support their family economy at home.

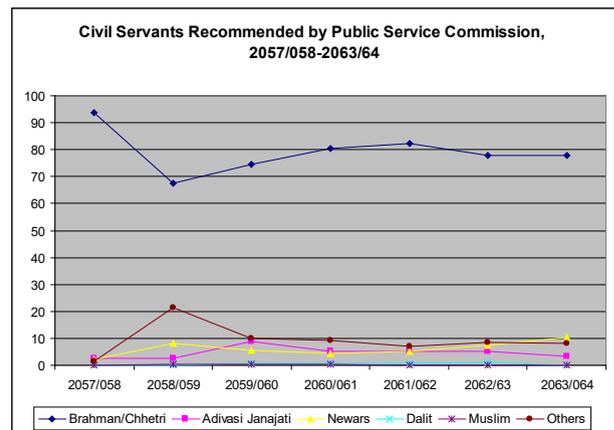


Figure 8: Caste/Ethnic Representation in Public Services
Sources: NSSL II 2007/08

Conclusions

Nepali is a country of various social groups. There are distinctly observable horizontal and vertical inequalities within these social groups, and they have been waging war against cultural discrimination, political domination, economic exploitation, and social exclusion. The government has introduced various policy measures, such as affirmative action, to address the grievances of various social groups. But these measures are just to mask the faces of problems raised by them, as the government does not honestly implement the policies and programs introduced for discriminated and excluded communities. Indigenous peoples, women, Madhesis, Dalits, and Muslims are subject to political subjugation, economic exploitation, and cultural discrimination regarding power relations. Therefore, despite their perceived feeling of being sovereign people after 1990, people from these communities remain unequal citizens of Nepal (Bennet,

2006).

Group inequality has been identified as a potential source of violent ethnic conflicts in many parts of the world (Stewarts, 2000; Cortier & Hug, 2019). Examples of violent ethnic conflicts resulting from horizontal inequalities can be drawn from Yugoslavia (between Serbs and Croats), South Africa (between whites and blacks), Rwanda (between Hutu and Tutsi), Northern Myanmar (between Rohingya Muslims and Rakhine Buddhists), Sri Lanka (between Tamil and Sinhali) and India (between Muslims and Hindus and between high caste Hindus and low caste Dalits. In Nepal, group inequality caused by discrimination and exclusion has been identified as the major cause of a decade-long armed conflict staged by the Maoists (Tiwari 2010). Because of group inequalities, Maoists could receive support from various social groups to sustain their then-called peoples' war from 1996 to 2006. Except for some sporadic incidences, Nepal has not yet experienced a severe problem of inter-ethnic conflicts resulting from group inequality. Historically, ethnic protest in Nepal has been organized against entrenched cultural discrimination and social exclusion induced by the state. So, the target of ethnic conflicts has always been the state. Though wide socio-economic and political disparities exist between social groups, they do not fight against themselves. Instead, they form a loose forum or united front to consolidate their forces and fight against the discriminatory and exclusionary state for their social, cultural, and political rights. Their collective politically conscious strategy is to escape the public allegation of being communal, parochial, and anti-national. Thus, Nepal has set a different example of ethnic conflicts resulting from horizontal inequalities that researchers have not yet paid attention. A growing political awareness after 1990 has made these communities assertive of their political rights, but their participation in the parliament and governance institutions was insignificant even in the post-democratic period. The last election of the local level governance has significantly increased and has increased the participation of indigenous peoples, Madhesi, women, Dalits, and Muslims (little above 60%), but their participation does not influence the national level policy-making processes.

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Appendix

Annex 2: 20-Point Agreement Signed Between the Government of Nepal,
Nepal Federation of Indigenous Nationalities (NEFIN)
and Indigenous Peoples' Joint Struggle Committee (IPJSC)
August 7, 2007

1. While nominating candidates for the first-past-the-post electoral system arranged for the constituent assembly election in the present constitution, candidacy will be determined to ensure proportional representation of all caste and indigenous peoples.

2. While preparing a proportional list, all political parties participating in the election will make arrangements to ensure the representation of each of the identified indigenous peoples.

3. In case an identified indigenous community is unable to secure its representation through both electoral systems, the Government of Nepal and the eight political parties will reach a mutually acceptable conclusion to ensure that there is at least one representative of such a group and that representation is legal and constitutional.

4. A state restructuring commission will soon be formed to present recommendations to the constituent assembly regarding a federal state based on ethnicity, language, geographic region, economic indicators, and cultural distinctiveness while keeping the national unity, integrity, and sovereignty of Nepal at the forefront. The commission will include indigenous peoples, Madhesis, Dalits, women, and eminent experts from various groups, regions, and communities.

5. A Commission for indigenous peoples will be formed.

6. While so far only Nepali has been recognized as the government's official language, the constituent assembly will also make arrangements to give recognition to locally spoken mother tongues along with Nepali. The government will remain committed to ensuring the linguistic rights of its citizens.

7. Arrangements will be made for the general public to seek and receive information on matters of public importance, including the constituent assembly, in their respective mother tongues.

8. The Government of Nepal has agreed in principle that all groups, genders, communities, castes, and ethnicities should be represented in political parties at all levels. A fully representative task force will be formed immediately to conduct a study to ensure inclusive participation and proportional representation of all castes, ethnicities, groups, communities, genders, and regions in all bodies and levels of the state.

9. All sectors will take initiatives to practically implement their legal and policy level commitments to ensuring inclusive and proportional representation of all

genders classes, regions, and communities, including indigenous peoples in all bodies and levels of the state.

10. A system will gradually be developed to receive advice and consultation from concerned groups and bodies while making important decisions regarding various groups, regions, genders, and communities, including indigenous peoples.

11. Arrangements will be made to immediately pass the proposal to ratify and adopt ILO Convention No. 169.

12. Appropriate steps will be immediately taken to complete the necessary legal process for adopting the United Nations Declaration on the Rights of Indigenous Peoples.

13. A District Coordination Committee for Indigenous Peoples will be formed democratically and transparently. also, high importance will be given to the involvement of the Nepal Federation of Indigenous Nationalities and the National Federation of Indigenous women in this process.

14. In keeping with the spirit and sentiment of gender mainstreaming in development plans and programs, including interim planning, and paying attention to women and diversity in programs implementation and profit-sharing, emphasis will be laid upon the participation of women from indigenous peoples, Dalits, and Madhesi groups.

15. As a party to the Convention on Biodiversity, the country will ensure that the traditional knowledge, skills, practices, and technology of indigenous peoples are harnessed and preserved.

16. The country will honor the renowned geographer Dr. Harka Gurung.

17. Arrangements will be made to provide Rs. 1 million each as a relief and compensation to the families of all Nepalis who died in the helicopter crash in Ghunsa, Taplejung.

18. The process started by the government to find a permanent solution to the problems faced by freed kamaiyas (bonded laborers) will be taken forward effectively as per the agreement.

19. The government will make a serious effort to reach an agreement for addressing the demands of various groups and communities, including Madhesi, women, and Dalits through talks and discussions with the respective groups.

20. Nepal Federation of Indigenous Nationalities, Indigenous Nationalities Joint Struggle Committee, and National Indigenous Women Federation request all indigenous communities in the country to unite for the success of the upcoming constituent assembly election.

Signatories

Ram Chandra Poudel, Coordinator, Government Talks Team

Dr. Om Gurung, Coordinator, Nepal Federation of Indigenous Nationalities

K. B. Gurung, Coordinator, Indigenous Peoples Joint Struggle Committee

Om Gurung was a Prof. of Anthropology at the Central Department of Anthropology. He was an eminent activist in the politics of identity. He passed away on October 17, 2022. He has contributed to the Dhaulagiri Journal of Sociology and Anthropology from its foundation as an unofficial advisor as well as author and reviewer. Prof. Gurung always praised the work conducted by the editorial team. This journal is privileged to publish a detail written interview of Prof. Om Gurung in Volume 15. The journal editorial team decided to publish this paper without completing review processes to pay heartfelt gratitude for his invaluable contribution to this journal.