



Constitution Building e-Bulletin

A quick and easy way to update yourself on the latest CCD news.

Dear friends,

Please find below the Constitution Building e-Bulletin, Volume 1, No. 2, April, 2010. It contains information and resources of interest and relevance to those working in the field of Constitution Building in Nepal, as well as other citizens who are interested in keeping up to date on the fast-moving events in Nepal's progress toward a new constitution. The update is developed in conjunction with partners, including the Constituent Assembly (CA), the UN, donors, media, CSOs, INGOs and others. This information will also be posted on the Centre for Constitutional Dialogue (CCD) web site for easy access. We encourage you to share any helpful resources and information with the CCD media team for inclusion in future updates and on the website. Please forward your information with necessary attachments and web links to info@ccd.org.np

We hope you will find issue No. 2 interesting and helpful.

Sincerely,

Centre for Constitutional Dialogue (CCD)

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What's Happening at the Constituent Assembly (CA)

The 28 May deadline for the completion of the constitution drafting process remains formally in place. However, with only two months left to finalize the new Constitution, the possibility of extending the CA's mandate by amending the Interim Constitution has been increasingly discussed among parties. The Constitutional Committee has not yet been able to begin putting together the actual draft Constitution, as

it has only received 2 of the 11 Concept Papers from the CA Plenary with recommendations and instructions on how to resolve open issues.

The three largest parties have continued to engage in talks about the process of resolving the remaining contentious issues, which notably also include some important aspects of the peace process and overall political arrangements, which go beyond the constitutional drafting context as such.

A 15-member study committee led by CA Member Agni Kharel (CPN-UML) has been entrusted by the CA Plenary to analyze the Committee Concept Papers and recommend ways to address differences and inconsistencies. It has submitted its recommendations on the concept paper of the Committee for the Preservation of Rights of Minorities and Marginalized (CPRMM) to CA Chairman Subas Nembang on 28 March. The report was tabled in the CA full house on 30 March and will be the third Concept Paper to be formally forwarded to the Constitutional Committee. The concept paper study panel proposes to redefine the terms “minorities” and “marginalized groups” in its report.

The major highlights of the Minority Rights committee report are:

- The revised definition on „minorities“: a community having a population lower than the percentage set by law, having distinct ethnic, linguistic and religious identity and having a desire to preserve such identities and have faced discrimination and oppression will be recognized as a minority group.

The „marginalized communities“: those groups of people who have been left behind politically, economically and socially and have not been able to avail of, or have been deprived of services and privileges due to discrimination, oppression, and geographical remoteness, and those who are below the latest Human Development Index (HDI) as set by law, and the term also denotes the highly marginalized and communities that are on the verge of extinction."

- The committee has suggested creating a mechanism in a future constitutional body to monitor the existing status of minorities and marginalized communities. The minority communities will have the right to preserve their cultural heritage, traditional knowledge and skills and right to preserve language, as well as the right to claim their land and natural resources, and the right to information in their mother tongue.
- Marginalized communities will have the right to proportional representation in all the state structures. Marginalized communities will be provided reservation/quotas in the public service and special rights on education, health and social security.

Marginalized communities are entitled to rights on land and natural resources, which they have been traditionally using.

What's Happening at the Centre for Constitutional Dialogue (CCD)

A. Seminar Series (Conducted at CCD)

- ✚ A seminar on **Anti-corruption Measurement: An Experience of Bangladesh** was presented by Mr. Manzoor Hasan on 1 March 2010. Mr. Manzoor Hasan shared his experience on anti corruption measurement that is practised in Bangladesh. Mr. Hasan gave an overview of Bangladesh, the state of its governance institutions and major governance challenges for Bangladesh. He also discussed **micro-finance** and its positive impact for eliminating poverty in Bangladesh.



- ✦ Mr. Henrik F. Larsen and Ms. Pauline Tamesis presented, **Transitional Initiative Challenges** on 4 March 2010. CA members were updated on the progress made in the constitution making process and CA Members expressed their views on help that could be made by UNDP. CA members requested continuation of services and facilities they have been receiving through CCD and other programmes of UNDP in Nepal. They also requested expert advice from UNDP to play the role of mediator for ending the political deadlock in Nepal.



- ✦ A seminar on **Gender, Equity and Social Inclusion** was presented by Ms. Meera Dhungana and Mr. Dhan Prasad Pandit on 9 March 2010. Ms. Dhungana suggested that CA Members amend discriminatory provisions made in the draft concept papers of different CA Committees. While Mr. Pandit emphasized the national issues to be prioritized by CA Members and other political leaders.



- ✦ A seminar on titled, **Spotlight on the Report of CA Committee on Natural Resources, Economic Rights and Revenue Sharing**, was presented by the Honourable Rajendra Kumar Khetan on 17 March 2010. Mr. Khetan talked about an equitable society, equal justice, human rights, climate change, taxation and revenue collection, challenges and opportunities for exploring natural resources. He emphasized competitive people's democracy and a mixed economy. He opined that generating massive employment would only be possible through investment and by promoting industry, trade and export.



- ✦ A seminar on **Rights Within Reach: Closing Critical Gaps in the New Constitution** was conducted on 19 March. Ms. Beatrice Lindstrom and Ms. Zoe Salzman Both of the presenters emphasized the provisions of equality and human rights to be included in the new constitution. Every right is equally important and human rights can't be limited to the citizens only. The new constitution should incorporate a provision which states nothing in the constitution shall be interpreted as permitting any person or group to offend or destroy rights and freedoms of others.



- ✦ On the occasion of **International Day Against Racial Discrimination**, an interaction programme on the constitution building process was conducted jointly with Jana Utthan Pratistha (JUP), Nepal on 23 March 2010. Dr. Om Gurung and Mr. Yam Bahadur Kisan presented their views and answered queries made by participants. Dr. Gurung said that to eliminate all kinds of discrimination, the state must compensate the victim by framing special laws. The State must respect and recognize the rights of indigenous and nationalities. The State should implement honestly the UN Declaration on Indigenous People and ILO Convention 169. Mr. Yam Bahadur Kisan stressed the end of racial discrimination through constitutional measures. He also talked about reward and punishment, access to justice, constitutional and legal mechanisms for equitable society.

B. Consultation/ Concept Paper Discussions: (Conducted at CCD)

Forms of Governance: Presidential, Parliamentary and Mixed Form

- ✦ A consultation programme on Forms of Governance: Presidential, Parliamentary and Mixed Form was conducted for the CA members and representatives of the civil society on 11 March 2010. Prof. Dr. Lok Raj Baral and Mr. Kashi Raj Dahal emphasized accountability, representative,

committed political leaders, popular legitimacy and stability for Nepal. The Chairperson of the Committee on Determination of the Forms of Governance of the State.

Structure and Administration of Local Governance: Challenges and Opportunities

✚ A consultation programme on Structure and Administration of Local Governance: Challenges and Opportunities was conducted by Mr. Sushil Gyewali and Mr. Som Lal at the CCD for the CA members and representatives of civil society on 25 March 2010. Mr. Gyewali focused on the structure and power sharing of the local governance whereas Mr. Subedi highlighted challenges of local governance in Nepal. Hon. Purna Kumar Serma, Minister of Local Development also gave his opinion on the issue.

✚ Programme on Federalism Issues was presented by Professor Ronald Watts on 26 March 2010. Professor Watts observed that federal systems have six characteristics, regardless of the pattern in which they are created. The first is they have two or more levels of government. Second, it involves a constitutional distribution of power and resources. Third, they create central institutional designed to be representative and inclusive of all the groups within the country. Fourth, there is a written and supreme constitution. Fifth, there is an empire or a judicator to decide whether the government is acting within its power or outside its power. Sixth, development of institutions for intergovernmental cooperative processes and institutions are crucial elements of any federal system. The essence of any federal system is balance and compromise. Where you get away from balance and compromise you almost always get dissection and divisiveness.

C. Documentary Show

Documentary, "Building Dignity" by Alejandro Parellada was screened on 30 March 2010. This 38 minute documentary offers a complete panorama of the voices that attract, repel and complement each other within Bolivia. It is the chronicle of a constitutional process that has propelled the contradictions of a country, based on differences and hope of understanding, into the world's limelight.

Other Meetings & Workshops (External programs): (CCD provided facilities only)

- National Indigenous Women Federation (NIWF) organized a workshop on Indigenous Women's Rights and Gender Issues in the New Constitution on 1 and 2 March 2010.
- Documentary Show on "Arun Purba Limbuwan," organized by Mitra Lingden on 3 March 2010.
- Workshop on the EC Toolkit for Integrating child rights into poverty reduction strategies. Organized by EC Toolkit on Child Rights on 4th March.
- An Interaction Program on Media and Constitution & Launching of the Media Report organized by Nepal Press Institute on 8 March
- Interaction program on youth and development organized by Foundation for Peace Environment and Development on 10 March 2010. The Speaker was Hon. Sunil Babu Pant and Mr. Masral Hassan of the Indian Embassy.
- Workshop on Need and importance of Disaster Management Act and Policy held on 11 and 19 March. This programme was organized by ECO NEPAL.
- TV Screening and Interaction Programme on Public Voices from Janakpur District by MIREST Nepal

- Interaction Programme on Movement of Against Human Trafficking was held on 29 March . The event was organized AATWIN.
- SAATHI, organized an NGO consultation on Gender Based Violence Mapping. This was held to support the Prime Ministers” Cell. The government has recently announced that 2010 would be the year against Gender Based Violence.

Film Directors” Guild organized an interaction on “Film Policy in the New Constitution. Why and How?” The participants discussed whether or not the cinema should be incorporated in the new constitution. Most of the speakers were of the view that it can come under the freedom of expression and intellectual property right.

Interview with Amrita Thapa Magar, Woman CA Member

Amrita Thapa Magar is a known name as a CA member and activist of United Communist Party of Nepal-Maoist (UCPN-M). Born in Syangya District near Pokhara, she is also the Chair of the CA Committee on Distribution of Natural Resources, Economic Rights and Revenue. She is also a caring mother for her 6 month old baby girl, Neeva, who is with her mother wherever she goes whether it is Kathmandu or outside the valley. Amrita has successfully carried out the double responsibility of being both a CA member and a mother. She started working to prepare the thematic committee’s report when Neeva was only 30 days old. At that time she came to meetings with her child waiting for her outside in the car and spent long days in contributing to the historic task of constitution writing. Neeva is her second girl – her first is now nearly 13 years old. Because she was underground during the people’s war, she did not have time for another baby. Even after coming into mainstream politics, she had to wait until the appropriate time to plan for the second child as she did not want to miss a single day from her responsibility as a CA member.



When the CCD e-bulletin Team went to visit her for this interview, they saw a car with a government number plate (normally provided to the Chair of a CA Committee) with a cradle made up of a shawl hung inside it and a care provider. The baby was swinging happily in the cradle. The car is Neeva’s day care room as there is no facility for day care for nursing mothers in the CA Secretariat. After the interview was over, it was time for Amrita to feed her baby. She came down with the team and started taking care of her baby like any other mother who feels so proud to be nursing the child. Each and every one who frequently visits the CA secretariat in Nepal is familiar with this baby and the way she is taken care of. Rojee Kattel talked with her about her role as a mother and a CA member while riding with Amrita, Deeva, and her caregiver back to her home and then on a return trip back to the CA.

Question: How do you feel about taking on the double responsibility of being both a CA Member and a mother?

Answer: In the beginning I was very worried about successfully taking on both these tasks. I thought the preparation of the report would be finished before Dashain but it did not happen. Thus, I came back to work early from my maternity leave to contribute to the historic task of constitution writing. Personally, I

don't feel that I am doing anything great because many women are giving birth to their kids while going to collect firewood or fodder and then coming back to their babies in the villages. I consider both responsibilities separately. As a CA member, I am responsible to the people and as a mother I am responsible for my daughter's care. No matter how tired I am from my professional work, I feel very energetic when I see my daughter. This, way it gives me energy for performing better.

Question: Coming back to your role as a CA member, your committee has already submitted its report. What are you busy with these days?

Answer: I attend the meetings of the CA. The Winter Session of the Legislature Parliament has been called for 4 April 2010. Apart from this, I attend different programs organized by different organizations and the party in Kathmandu and the districts. I am also preparing to publish a collection of my articles written while I was underground and afterwards.

Question: Please describe your daily schedule.

Answer: Deeva wakes up around 5:00 in the morning. I change her nappy and then feed her. When she goes to sleep again at 7:00-7:30, I prepare my clothes, do some reading and any other work that needs to be done. I have a caretaker who helps me in this. After she gets up, I feed her again as I feed her every two hours. Sometimes when I have to move early around six or seven from home, I take her along and she sleeps in the car. I feel that when she is at home she gains more weight and looks healthier, especially when I take her for a long drive. When I get time, I lie down with her but it is very difficult because we do not have a facility for it. But, the CA Secretariat has provided a pass to the caretaker also who is with the child when I am busy in meetings. I come out every two hours to feed her. I was at the CA meeting from 11:00-6:00 p.m. for five days when she was only 30 days old, because the CA was discussing the concept paper of my committee.



I would like to make a point that I had raised about making such places as the CA "women-friendly" not only after I became pregnant but also during the interim legislature parliament. I and other women members raised our voices for providing more toilets for women. We had raised voices for child care centers. It was only after we raised our voices that a pass was provided for my caretaker but rest is yet to be done.

Question: What are the difficulties faced by women involved in the constitution making process of Nepal?

Answer: Politically, since the number of women is less, their participation in discussion is also less. The CA infrastructure is not women-friendly and that needs to be corrected. The social environment also makes the women's movement difficult because of the security problem as the meetings sometimes go on late in the night.

Woman's leadership is also not easily accepted because of a deeply rooted patriarchal society. Such perspective needs to be changed as the first step. Women in different parts of the country face different problems. The restructuring of the state must consider women's issues seriously to bring women in the forefront of the mainstream. There should be temporary special provisions to uplift them. The needs extend from the political to the economic system. For example, though women are guaranteed equal property rights, its practical implementation is questionable. We must make an effort toward a general gender-friendly socio-cultural environment.

The government must develop special plans for lifting the status of women to convey the message that women can contribute equally to the nation building. The government must deliver employment plans for incorporating more women. Free and compulsory education up to high school (grade 12) must be guaranteed to enhance girl's education status. Women have special health needs due to their reproductive role. The health services must address this issue. A special package focusing on women should be designed and implemented through the national budget to guarantee that women benefit from services. There should be a proper monitoring and reporting system of such policies and plans.

Question: When you came back to work a month after delivery, what was the response from your male colleagues?

Answer: My friends often tell me the stories that they talk about me with other women who hesitate to come out of their homes. I would particularly cite a statement from Laxman Ghimire of the Nepali Congress, who tells me that he is really surprised and encouraged to see my spirit.

Question: What is your perception about the Women's Caucus in the CA?

Answer: So far, it has been carrying out different activities positively. I think the caucus should also focus its attention as a watchdog on making the state's structures gender friendly.

Question: What are the top three important issues incorporated in the drafts of the thematic committees that are going to bring positive changes in women's lives?

Answer: First, special rights ensured by the State Restructuring Committee. Second, the fundamental rights committee has included the provision for citizenship on the basis of descent which is also positive for women's rights. Third, formation of a women's commission as a constitutional body.

Question: How can women CA members make women's voices heard in the CA?

Answer: Women CA members must be united to make their voices heard. They must be having one voice on women's issues. Not only that, men should also cooperate in helping us raise our voices. We must utilize women inside and outside CA, as well as the international community for making our voices heard. We have been given an opportunity for the first time in history. We must make it meaningful and successful.

SPCBN Civil Society Project Activities

It is planned that Phase 2 of the Civil Society Project will perform field implementation of the **Loktantrik Sambad (Democracy Dialogues)** in all 3,900 VDCs and 240 constituencies of Nepal as one of the major 2010 CSO team activities to assist in achieving input from Nepali citizens about their proposed

constitution. To conduct the Loktantrik Sambah, however, it is essential that the draft constitution be produced on-time. But, given that the draft constitution has not been presented to the CA yet and the recent CA 10th amendment does not specify when it will be drafted, not to mention the uncertain situation of the constitution making process, the CSO team met with their CSO Project Managers from throughout Nepal to discuss future strategies. CSO-2 team Project Managers represented competitively selected partners chosen to carry out the Loktantrik Sambah (Democracy Dialogues).

The Project Managers meeting was held to ensure a clear and common understanding about the implementation of the Democratic Dialogues to be conducted after the facilitators' trainings that the CSO team recently conducted

The meeting discussed these questions:

- What will be the best ways or methodology to conduct the upcoming Democracy dialogues without the draft constitution?
- How will this affect the community level recommendations from the Dialogues?
- What additional support (*if any*) do the VDC-level facilitators require to conduct the Dialogues without the draft constitution?
- What are the required reference materials on the important committee reports?
- Is there enough information in the current manuals on the committee concept papers?
- A clear understanding of what to include in the final 240 constituency reports for the CA?

Excellent and highly participatory discussions on the proposed strategy for implementing the next *Loktantrik Sambah*, the content of the CCD Legal Team's Briefing Package, additional resource materials for the facilitators and the proposed content for the final constituency-level reports were arrived at this important meeting that will help to ensure a participatory constitution for Nepal.

BBC World Service Trust Activities

'Sajha Sawal' Programme

During March, two Sajha Sawal programmes were recorded in Jumla, an area which is one of the poorest and most marginalized in all of Nepal and is largely ignored by the political process and the media. The subject was, '**Philanthropy**' with public participation of around 300 people. The programme was wide ranging with many questions from the audience about the different systems being proposed in the new constitution. The discussion was joined by three renowned Nepali personalities: Dataram Khanal, Vice-Chairman, Social Welfare Council, Uttam Sanjel, who founded „Samata School" for poor children and Dilshova Shrestha, a well-known social worker working in the Jumla area. ***The discussion is scheduled to be aired in April.***

The second programme recorded in Jumla was, '**Karnali Speaks for a New Constitution**' with the public participation of more than 500 people. The discussion was joined by Naresh Bhandari, CA Member from Karnali, UCPNM, Devi Lal Thapa, CA Member from Karnali, UML, and Din Bandhu Shrestha, NC Central Committee Member, NC (from Jumla). ***The discussion was aired on the Kantipur TV, BBC Nepali Service, ACORAB and other radio stations in Nepal on 14 March 2010.***

A third programme was recorded on, '**The Issue of Government Change.**' The interaction with public participants was facilitated by the Sajha Sawal Host Mr. Narayan Shrestha. The discussion was held at

the The Bakery Cafe, Kathmandu. The discussion was joined by Gopal Man Shrestha, NC Vice Chairman, Amit Sherchan, CA Member, UCPNM, and Sudhir Sharma, Editor, Kantipur Daily ***This discussion is scheduled to be aired on the Kantipur TV, BBC Nepali Service, ACORAB and other different radio stations in Nepal on 4 April 2010***

BBC also repeated the first ever episode of Sajha Sawal which was with the former Prime Minister, G.P. Koirala who died in late March. The programme was on the then seven party alliance and CA elections which scheduled at time and actually were conducted successfully on April 10, 2008 ***The discussion was broadcast on the Kantipur TV, BBC Nepali Service, ACORAB and other different radio stations in Nepal on 21 March 2010***

Updates from the Drama Team (Katha Mitho Sarangiko)

Programmes broadcast during this reporting period (working title: „Learn From the Field“), was on federalism using agriculture as a metaphor. Issues raised in these episodes were ethnic harmony, sociocultural ethnic harmony and diversity through the metaphor of biodiversity. Major recording were done in the villages of Pokhara. Experts/guest interviewed for this magazine programme in „Katha Mitho Sarangiko“ were: Mr. Ganesh Gurung, Human Resource and Agriculture Specialist, Mr. Bhairav Raj Kaini, Director General, Department of Agriculture, Ms Yam Kumari Shrestha, President, Nepal Permaculture Association, and Mr. Bhola Shrestha, Agriculture Specialist, Organic Certification, Nepal. ***The drama was aired on BBC Nepali Service, ACORAB and other radio stations in Nepal at various times in March.***

CB Resources and Recent Publications



Public Consultation on a Draft Constitution :

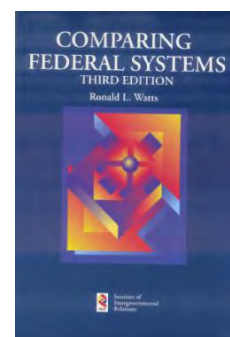
The paper contains an introduction on what has been done and planned to be done with respect to the public opinion consultation for the new constitution of Nepal. It describes how people can be prepared to put forward their views on the draft constitution. It also considers the constraint of time in public consultation, and how this constraint's effects can be minimized by creating more effective plans and strategies for people for whom the constitution is being written.

The paper has been prepared with a special reference to women but is useful resource for all interested in influencing constitution drafting. Discussion paper is authored by **Jill Cottrell** (the Senior Advisor to the Women and Constitution building initiative at International IDEA); and edited by **Cecilia Bylesjö** (Gender Adviser for International IDEA/Nepal office). The discussion

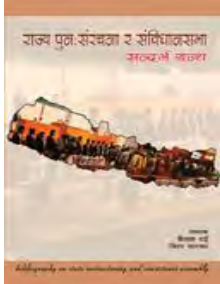
paper has been written in English language and translated into Nepali.

Contact: Rita Rai (Email: r.rai@idea.int) or Deepti Khakurel (Email: d.khakurel@idea.int). Phone number: 01-5535252

Comparing Federal Systems Professor Ronald Watts provides a clear analysis of the design and operation of a wide range of federations. There is much that can be learned from the experience of federal systems throughout the world. At



present, there are 25 functioning federations in the world (containing over 40 percent of the world's population). A distinctive feature of the popularity of federalism in the contemporary world is that its application has taken a variety of forms and has included some new variants and innovations.



Bibliography on State Restructuring and Constituent Assembly Compiled by Kailash Rai and Chiran Manandhar and published by Martin Chautari Group in 2009. The bibliography is organized into five sections viz., 1) Books, 2) Articles, 3) reports, 4) Seminar Papers, Bulletin and Magazines. **The book is in Nepali language.**