



CARTER CENTER - NEPALIS WANT NEW CONSTITUTION TO PROMOTE DECENTRALIZATION AND EQUALITY

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FOR IMMEDIATE RELEASE

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Kathmandu...According to a Carter Center report released today, Nepalis expect their new constitution to provide peace, security, and address basic needs. They support measures to promote equality, inclusivity, and education for all; end discrimination; uplift disadvantaged communities; and improve access to the state and justice system.

The report is based on the most recent findings of Carter Center observers throughout the country, who have monitored the post-election peace and constitutional-drafting process since June 2009 and provided impartial information on progress to political leaders, civil society, the international community, and Nepali citizens.

The report explains that citizens who support federalism tend to associate it with decentralization of power and hope that the government will be brought closer to the people, allowing for greater access to the state, more accountable decision-making, improved service delivery, an end to discriminatory practices, and more equitable representation. However, some citizens raise concerns regarding federalism such as disintegration of the country, communal conflict, and being cut off from other areas.

“The concerns raised by citizens underscore the need for accurate and unbiased information about federalism to reach the local level to facilitate informed discussion and debate,” said Dr. David Pottie, associate director of the Carter Center’s Democracy Program.

Carter Center observers also found that indigenous and marginalized peoples’ organizations are increasingly active at the local level, particularly in promoting ethnic-based federalism, which they see as a means for decentralization, equitable representation, and ending discrimination. By contrast, national political parties remain largely inactive on constitutional issues at the local level with the exception of the Rastriya Janamorcha and the UCPN(M).

“Regardless of the federal model adopted, citizens and advocacy groups are both clear in their desire for decentralization and their opposition to the idea of domination by any one particular group within the new federal states,” said Pottie.

The Center offers the following recommendations to Constituent Assembly (CA) members and organizations that provide it with financial or technical assistance:

- Conduct an impartial and accurate awareness campaign about federalism at the local level.
- Widely publicize basic information regarding the constitutional process to inform citizens of progress achieved and ongoing debates within the CA to date.
- Conduct a genuine public consultation on the draft constitution that informs citizens of how the new constitution will impact their daily lives and incorporates lessons learned from the previous outreach program.
- Increase efforts to engage in dialogue with indigenous and marginalized groups that are using peaceful and democratic means to raise their demands.

Carter Center reports on Nepal's peace and constitutional-drafting process may be found at www.cartercenter.org

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Working to build peace in Nepal since 2003, the Carter Center deployed an international election observation mission to observe the 2008 constituent assembly elections. The Center has remained in-country to monitor the constitutional-drafting and peace process, with a focus on the local level.

"Waging Peace, Fighting Disease, Building Hope." A not-for-profit, nongovernmental organization, The Carter Center has helped to improve life for people in more than 70 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers in developing nations to increase crop production. The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University, to advance peace and health worldwide. Please visit www.cartercenter.org to learn more about The Carter Center.

**FEDERALISM AND CONSTITUTIONAL ISSUES IN NEPAL:
PERSPECTIVES FROM THE LOCAL LEVEL**

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I. INTRODUCTION

Constituent Assembly (CA) Members are drafting a new constitution for Nepal. This process is expected to culminate in a new social contract that will enshrine principles of multi-party democracy, inclusivity, equality, justice and fairness, and that will be broadly accepted by the people of Nepal. The challenge before CA Members is to promulgate a constitution that acknowledges the country's history, reflects the values of the Nepali people as a nation, and is forward looking with principles that will endure and evolve to accommodate changes in political and social circumstances. In this context, CA Members have a critical role to play both as trustees of the common good and national interest, and as delegates who serve as genuine representatives of the citizens who elected them.

This report is intended to provide perspectives from the local level on key constitutional issues, with a particular focus on federalism and the restructuring of the state. The report concentrates on three broad categories: citizens; indigenous and marginalized people's groups; and political parties. In doing so, it examines questions such as: What do citizens want or expect from the constitution? What do citizens understand and what do they think about federalism? How are indigenous and marginalized peoples' organizations contributing to the process and what do they want? And finally, what are political parties doing at the local level to raise citizen awareness about constitutional issues? The answers to these questions are sometimes clear, but often complicated. This report is not intended to prescribe the way forward, but rather to bring out the diversity of views that currently exist, to provide a snapshot of the debate at the local level at present, and to help policymakers assess which interests may be strongest amongst different sections of the population.

II. METHODOLOGY

The findings contained in this report are based on more than 1,500 interviews conducted between June 2009 through January 2010 with government officials, political party representatives, civil society members, representatives of indigenous and marginalized peoples' organizations, members of the media, international community representatives, and citizens in more than 50 of Nepal's 75 districts. The Center's observation methodology is based on brief district visits using qualitative interviews to gather key informant and citizen opinions. The Center seeks to ensure that its findings regarding citizen opinions are representative to the extent possible. Using official census data, Carter Center observers have traveled to Hill, Mountain and Tarai districts in a manner reflective of population distribution.¹ Within each district, observers visit district headquarters along with urban, rural, remote, ethnically or caste homogenous and heterogeneous Village Development Committees (VDCs), wards and villages. Thus, the Center's findings reflect a diverse set of citizen opinions that avoids any particular bias based on geography, ethnicity, class, age, or gender.

To help provide a framework for understanding its findings regarding citizen opinion on federalism, the Carter Center has made use of survey findings compiled by the Kathmandu-based research organization Interdisciplinary Analysts (IDA). Applying scientific principles for conducting public opinion research, IDA sought to gauge citizen opinion throughout the country regarding what should be the basis of federalism in Nepal. IDA conducted its research in June and July 2009 and its findings were publicized in the Kathmandu Post and Himal Magazine in December 2009.² The IDA findings provide a complementary set of quantitative data that are in line with the Center's own qualitative findings, and which are meant to highlight possible prevailing trends found either throughout the country or among a select community of citizens.

¹Population data from the Nepal Bureau of Statistics (2001); the Carter Center uses disaggregated census data for population distribution figures in Hill, Mountain, and Tarai districts for developing its deployment plans to ensure that findings are gathered in a more representative manner.

²"Citizen Opinions on Federalism" by Dr. Sudhindra Sharma, Kathmandu Post, 8 December 2009 and "Sanghiyata mai almal" by Dr. Sudhindra Sharma with Bal Krishna Khadka, Himal Khabarpatrika, 16-30 December 2009.

III. CITIZENS

a. Citizen Participation in the Constitutional Process

To provide a framework for understanding the citizen opinions on constitutional issues laid out in this report, the Carter Center gauged citizen participation levels in the constitutional process. Overall, Carter Center observers have found that citizen understanding of constitutional issues appears largely uninfluenced by political parties, NGOs, or ethnic-based and marginalized peoples' groups at the local level. Applying principles of randomness, Carter Center observers conducted interviews with 337 citizens throughout 24 districts at the district headquarters and VDC levels between August and December 2009. The Center found that more than 80 percent of citizens observers met with had not engaged in the constitutional process in any formal manner, be it through CA outreach efforts, NGO activities, political party activities, protest programs, or other events. Despite flaws, the February/March 2009 CA opinion gathering process³ appears to have engaged with the largest number of citizens to date, with 41 people Carter Center observers spoke with claiming to have filled out a CA questionnaire. Meanwhile, 15 people said they had participated in an NGO activity related to the constitution, while only 7 people the Carter Center met had attended a political party event.

To further understand how citizen opinion is shaped regarding constitutional issues, the Carter Center sought to identify the sources from which citizens are receiving information on the constitutional process. Observers found that the majority of citizens receive information about the constitution drafting process from the radio, particularly at the VDC level; at the district headquarters level, newspaper and television are also common sources. Many citizens say that they have not learned much about the constitution from these news programs beyond the fact that it is behind schedule. Although there are a considerable number of programs being aired about the constitutional process nationwide, few citizens report listening to any such programs. When citizens reference hearing radio programs specifically about the constitution, they often provide critical responses, such as: these programs use language that is too technical for them to understand; they do not address issues of importance to them; they do not provide opportunities for citizens to ask questions; or the programs are aired at times when they are busy working in the fields.

b. Citizen Constitutional Desires & Expectations

When asked about constitutional desires, the most common refrain among citizens is that they want "peace" and "security" from the new constitution.⁴ A majority of citizens are hopeful that the constitution will address basic needs such as food security, clean water, health, and sanitation, or will promote development – roads, electricity, and agricultural assistance. For example, the overwhelming majority of citizens interviewed in Bhojpur demanded that food and water be guaranteed by the constitution. The same sentiment was expressed by citizens in many other districts, particularly in remote areas where the reach of the state is poor or non-existent. In districts in the Far Western Hills and Mountains such as Baitadi, Bajura, and Darchula, poor socio-economic conditions were cited by many citizens as preventing them from engaging in discussions about constitutional matters altogether.

In terms of specific constitutional issues, the demands most often raised by citizens related to measures to promote equality, inclusivity, end discrimination, uplift historically disadvantaged communities, and create a more accessible justice system. In particular, education and job reservations were most frequently cited as important steps towards greater equality and the uplifting of disadvantaged

³ Citizen concerns about the first CA public opinion gathering process were reported in The Carter Center's August 26, 2009 report. These included: the questionnaires used were too long, technical, and complicated; doubt about whether citizen opinions would really be incorporated; complaints about political party domination or mishandling of the process; dissatisfaction with the use of only Nepali language on the forms; and finally many complaints that citizens were unaware of the teams and the teams did not reach out far enough to areas outside the district headquarters.

⁴This remains consistent with Carter Center findings published in our 26 August 2009 report.

communities. Many spoke of the need to guarantee the “right to education” in the constitution, viewing it as a critical first step. Many of the same citizens who spoke of the right to education also spoke of the need for employment opportunities, with a large number expressing a desire for job reservations or a quota system – particularly in the public sector – to be enshrined in the constitution.⁵ Villagers in one Bhojpur community mentioned the need for job reservations and skills training in the same breath, noting that if a quota system were introduced, people eligible for positions must be qualified to assume them. In Udayapur, one Rai citizen said that employment quotas for Janajati people in official positions were necessary because “there may be rich people in Janajati communities, but they still don’t have access to the state.”

While the rights to education and job reservations are often cited by Madhesis, indigenous people, women, Dalits, and Muslims in the context of ending discrimination, different communities offer varying additional prescriptions to remedy the particular discrimination problems they face. For example, many indigenous people speak primarily of proportional representation in the public sector as a step towards ending discrimination, whereas many Madhesis view autonomy and fair citizenship laws⁶ as also important. A consistent sentiment exists among most Dalits for the outlawing of “untouchability”, as is enshrined in the Indian constitution. Many women speak of the desire for social equality to be included in the constitution in various ways such as an end to wage discrimination, strong protection against violence and exploitation of women, and state benefits for working mothers and widows. Finally, a large number of Muslims advocate for recognition and incorporation of *madrassas* into the mainstream education system and acknowledgment of religious laws and practices.

i. Language and Cultural Preservation

Language and cultural preservation is another common theme among citizens, including recognition of, and respect for, cultural practices, institutions, and holidays. The most widely noted aspect of cultural preservation relates to a desire for mother tongue languages to be recognized and protected in the constitution. For example, a Danuwar community in Udayapur supported the use of Nepali as the language of administration and education, but felt their language was dying and needed to be protected in the constitution. The same sentiment was expressed by citizens from Newar, Tamang, and Rai communities in Bhojpur who wanted their mother tongues to be taught as an additional subject in schools. Beyond cultural preservation, citizens offered differing opinions on how mother tongue languages should be used in day-to-day life, but a large number desire being able to use their mother tongue to engage with local government. For example, illiterate Tamang citizens interviewed in Makwanpur were hopeful that they will be able to use the Tamang language to deal with the government on official issues. Although content to communicate in Nepali, some Limbu citizens in Panchthar wanted to be able to access government services in Limbu.

Citizen opinion regarding the use of language for educational purposes is mixed. For example, members of the Mecche and Santhal communities in Jhapa wanted education to be provided in local languages, suggesting that the language of the local majority community should be used in schools. Some of the Limbu citizens interviewed who wanted to be able to access government services in Limbu also said they wanted to their children to be educated in Limbu through the primary level as they were struggling to

⁵ The understanding of a job reservations or quota system appears to stem in large part from the proportional electoral system introduced before the 2008 CA elections, with reservations set aside based on population data for Janajatis, Madhesis, women, Dalits, “backward regions,” and “others,” as well as familiarity with the Indian system of reservations. In this context, observers have found many Brahmins and Chhetris in the Bheri, Karnali, Mahakali, and Seti zones who feel they are similarly disadvantaged, but are not in favor of job reservations or a quota system because they believe they would not be eligible and thus fear it would only further marginalize their communities.

⁶See section III.c. “Federalism in the Tarai” for further explanation regarding Madhesi opinion on the relationship between the end to discrimination and autonomy. Regarding citizenship, one Madhesi villager claimed that people who were Nepali speakers of Hill origin who are native to other countries have less difficulty obtaining citizenship than non-Nepali speakers who are native to the Tarai.

learn in Nepali. While the idea of education provided in local languages appeals to some, the practical merits are often debated among citizens. In Makwanpur, a mixed community of Brahmins, Chhetris, and Magars asked whether each group would get its own school and how teachers would be able to teach in a language that is not their own. Further, a Newar shopkeeper in Ramechhap was opposed to education in mother tongues and questioned how people could compete with each other in the same job market if they were all educated in different languages.

ii. Language Use in the Tarai

The issue of language use in the Tarai is somewhat more complex, with no consistent sentiment found on how Nepali, Hindi, or mother tongues such as Awadhi, Bhojpuri, Maithili or Tharu should be used. On the discussion of a possible “link language” for the Tarai, opinion in the Eastern and Central Tarai was mixed, with some citizens saying it should be Hindi, others Nepali, and some both. The general sentiment observers found was best expressed by a group of villagers in Rautahat to whom it mattered less which language is officially recognized as they have become accustomed to using Nepali, Hindi, and Bhojpuri, their mother tongue, in their daily lives. They said their children learn Nepali in school, the explanation by the teacher is provided in Bhojpuri, and Hindi is learned by watching Bollywood movies or listening to Hindi songs.

However, a large number of citizens in the Tarai placed importance on being able to use local languages for educational purposes and engaging with local government. In interviews conducted in villages in Dhanusa and Saptari, respectively, citizens expressed opposite opinions on whether Nepali or Hindi should be a “link language” but shared a common sentiment that Maithili should be used for educational purposes or in local government affairs. In Dhanusa, the issue of being able to use Maithili over Nepali or Hindi resonated more deeply with those interviewees who speak it as a mother tongue. One group of villagers argued that Maithili should be an official language of an eventual Tarai state or states. Indicative of such sentiment, a report on the front page of Kantipur Daily on August 31, 2009 said that the number of students enrolling to study for a MA degree in Maithili has shot up so much in recent months that the University is having difficulty managing it. Meanwhile, Tharu citizen opinions in Banke regarding the language for education was similar to Adivasi/Janajati citizen opinions found in some hill districts; of 10 citizens interviewed, eight thought children should be educated in Nepali, though six of those eight wanted Tharu language to be taught as an extra subject in schools.

c. Citizen Opinions on Federalism

i. General Perspectives on Federalism

The Kathmandu-based research organization Interdisciplinary Analysts (IDA) recently released its findings from a July 2009 survey gauging citizen opinions on federalism across the country. IDA found that 32 percent of Nepalis had heard about federalism, with awareness levels being much higher among educated citizens.⁷ IDA’s survey highlighted the considerable variance in opinion among citizens on how – or even if – the state should be restructured. Overall, when asked “*What should be the basis of the federal system in Nepal?*”, roughly half (48.1 percent) of respondents offered an opinion; approximately one quarter of respondents (26.7 percent) said that Nepal should not be a federal state; and another quarter (25.2 percent) didn’t give an opinion either because they didn’t understand federalism or didn’t know how to answer. Of the 48.1 percent of respondents who offered an opinion, there was considerable difference regarding what the basis should be: 14.9 percent (or roughly one-third of the total supporters) favored federalism on the basis of East-West geography; 13.9 percent supported ethnic-based federalism; 7.9

⁷ IDA found that the higher a citizen’s education level, the more likely it was that s/he had heard of federalism. For example, 92 percent of citizens who possessed a bachelor’s degree claimed to have heard of federalism as opposed to only 10 percent of illiterate citizens.

percent based on North-South geography; 6.1 percent based on language; 4.8 percent based on the present districts and zones; and only 1 percent based on economic transactions.

Carter Center observers have found that when citizens are supportive of Nepal becoming a federal state, it is generally because they associate it with “decentralization.” When asked why they support federalism, the answers most often provided to Center observers relate to greater access to government and/or a more representative government, which they believe would promote development and improve basic service delivery. Many citizens view federalism as necessary for ensuring power is devolved to the local level, regardless of the model they advocate. For example, citizens interviewed in Chitwan who supported federalism – on condition that it is not ethnic-based – wanted a federal system because they believed bringing government closer to people would make decision-makers more accountable. In Panchthar, many citizens who supported federalism – arguing that it should be ethnic-based – expressed frustration that they could not access state services at present and argued that decentralization was necessary; one village woman even said there should be a constitutional provision mandating that VDC secretaries work in the VDC.

Carter Center observers also continue to find that basic, impartial information about federalism is not reaching the majority of citizens⁸ and the information that is filtering down through radio, newspaper, and other means is raising concerns among some citizens that federalism will result in disintegration of the state or conflict. Such concerns seem to have led some to conclude that Nepal should not be a federal state. For example, in Dadeldhura, many citizens at the village level had heard little about the constitutional process on the radio, but most said they heard federalism will “divide” the country and lead to conflict. In several places, citizens expressed concern that federalism would set the country back to the pre-Prithvi Narayan Shah period of “Baise/Chaubise Rajya”.⁹ One Magar man in Palpa said he believed federalism, regardless of the model implemented, “will turn Nepal back into how it used to be - a bunch of little kingdoms fighting each other for a tiny piece of power.”

In addition to concerns about disintegration and conflict, many citizens have expressed fears – particularly in the Hills and Mountains – about being “cut off” from other parts of the country or “trapped” in areas where there are no resources or industry. There is a widespread belief that federal borders would inhibit or threaten the free flow of resources and people between the Mountains, Hills, and Tarai. This sentiment has led many to fear the prospect of living in a federal state that is not self-sufficient. Specifically, many Hill and Mountain citizens cite their dependence on food and other imports from the Tarai as well as on transportation links to and from India. They have concerns that Tarai federal states could potentially restrict such imports, resulting in food or petrol shortages in the Hills. Citizens in the Tarai have also expressed similar concerns cognizant of the interdependent nature of Nepal’s diverse regions. When asked about fears expressed by citizens in the Hills, one group of Madhesi villagers in Kapilvastu said that they depended on water, timber and fruit to come from the Mountains and Hills. They further said that if any Tarai state were to block the flow of goods northward, Hill states “could easily retaliate” and equally harm the people of the Tarai.

ii. Ethnic-Based Federalism

Citizen opinion regarding the prospect of ethnic-based federalism varies considerably both among and within caste and ethnic groups. As noted above, IDA findings indicate that overall support for ethnic-based federalism is 13.9 percent, though disaggregating the data according to broad regional, ethnic, and caste group categorizations offers useful further insight. As many would expect, support levels for

⁸ This was first reported in the Center’s August 2009 public report and is supported by IDA findings.

⁹ “Baise/Chaubise Rajya” refers to the 22 principalities (Baise Rajya) in the far western Karnali region and 24 principalities (Chaubise Rajya) in the western Gandaki region. These principalities were consolidated with the kingdoms of the Kathmandu Valley to establish a unified Nepal state under Prithvi Narayan Shah in the 18th Century.

ethnic-based federalism are highest among constituencies such as Hill Janajatis, Newars, and Tarai Madhesis and Janajatis. However, in all three cases, IDA has found that the level of support was only around 20 percent or one-in-five¹⁰; meanwhile, Hill Caste and Madhesi Caste groups¹¹ and Madhesi Dalits support levels for ethnic based federalism were around 10 percent or one-in-ten. The lowest support levels for ethnic federalism were found among Hill Dalits and Muslims at around 5 percent or one-in-twenty. These findings are largely in line with what the Carter Center has observed over the past seven months.

Among those who support ethnic-based federalism, the Carter Center has found that strong and consistent sentiment in favor exists among Limbus interviewed in the Eastern Hills.¹² Limbu citizen support for a Limbuwan state appears to be largely predicated on historical territorial claims: many citizens say that Limbuwan once comprised the nine districts east of the Arun River and reference the 18th century agreement with Prithvi Narayan Shah recognizing special Limbu autonomy. Aside from Limbus in the Eastern Hills, support among Hill Janajati communities regarding ethnic-based federalism appears to be less clear, although there is some level of interest within larger Hill Janajati communities towards the idea of ethnic states that would recognize their identities. Overall, Rais interviewed in the Eastern Hills and Tamangs in the Central Hills appear to be somewhat more open to the idea of ethnic-based states than do Magars interviewed in the Western and Mid Western Hills; sentiment appears to be largely passive among Gurungs interviewed in the Western Hills.¹³

The reasons offered by various groups who support ethnic-based federalism are often the same, and largely center on political, social, and economic upliftment. The benefits associated with decentralization are regularly referenced by supporters of ethnic-based federalism, and generally within the context that development and economic opportunities are particularly important for uplifting historically disadvantaged communities. For example, in Rolpa, some citizens believed that the large concentration of Magars in a new ethnic-based Magarat state would make Magar interests impossible to ignore in development and governance. Similarly, though Magars interviewed in Nawalparasi were not universally in support of federalism, those who did support a federal system were in favor of a Magarat state because they believed it would lead to increased development and economic opportunities for Magars.

The hope among general citizens that ethnic-based federalism will uplift disadvantaged groups is never expressed to Carter Center observers as a desire for ethnic predominance, but rather as a desire for equal rights and equitable representation. For example, many of the same Limbu citizens who are strongly in favor of a Limbuwan state say equal rights for caste and ethnic groups is the most important thing regardless of the federal model adopted. Similarly, Rais, Brahmins, and Newars interviewed in Bhojpur were found to be sympathetic to the idea of a Kirat state, though citizens from all three communities said that what was most important was that equality was guaranteed and Rais did not “dominate” the state. Some said they would be comfortable with ethnic-based federalism if it resembled the “Indian model” which recognizes ethno-linguistic identity groups and provides reservations on a basis commensurate with demographic composition.

The concern that one group might “dominate” is a frequently cited reason by those who oppose ethnic-based federalism – even within a community that might live in a state which recognizes their own identity. For example, some Tamang villagers in Ramechhap were not in favor of a Tamang state because

¹⁰ By contrast, more Hill Janajatis (26.3 percent) and Newars (36.0 percent), and nearly the same number of Tarai Madhesis and Janajatis (16.6 percent), were found to be opposed to federalism altogether.

¹¹ Within the category of Madhesi caste group, IDA includes Yadav, Teli, Koiri, Kurmi, Kewat, Tarai Brahman, Baniya, Kalwar, Kayastha, Rajput, and others.

¹² This finding is supported by disaggregated IDA survey data regarding opinions among Hill Janajatis; according to the data, 42 percent of Limbu citizens were supportive of ethnic-based federalism.

¹³ This finding is also supported by disaggregated IDA survey data regarding opinions among Hill Janajatis; according to the data, 25 percent of Tamangs were in favor of ethnic based federalism as opposed to 15 percent among Gurungs and Magars.

they believed that one group should not “dominate” others. Additionally, the question of how minorities may be treated in ethnic states is also a commonly raised concern. Gurung citizens in a mixed-ethnicity VDC in Kaski expressed apprehension regarding the fate of their non-Gurung neighbors, asking Carter Center observers if they would be forced to leave a Tamuwani state. In Bhojpur, even though many non-Rais were sympathetic to a Kirat state, some Brahmin and Chhetri villagers said they feared being driven out of their homes. A group of Newars interviewed worried that a Kirat state could stir tensions among caste and ethnic groups who currently live side-by-side. In Udayapur, some citizens raised concerns that Rais would be given “first priority” over resources and state power to the detriment of non-Rai communities.

Concerns regarding relations between ethnic communities have also led some to believe that ethnic-based federalism will increase the potential for conflict, thus mitigating any benefits which they might associate with federalism. While one Magar villager interviewed in Pyuthan said that he was in favor of a Magarat state to advance development in “backwards” communities, he was also concerned that ethnic-based federalism would pit one community against another. In Makwanpur, non-Tamangs expressed concern about the fracturing of the country along ethnic lines.

iii. Federalism in the Tarai

In the Tarai, Carter Center observers found that citizens largely seem to support federalism; however, their opinions are also the most complex. According to IDA findings, support for federalism among Tarai Madhesis and Tarai Janajatis (mainly Tharus) is more positive than among other communities. The percentage of people who said they were against Nepal becoming a federal state was found to be lowest among these constituencies: only 16.6 percent expressed opposition to federalism. However, opinion regarding the basis of federalism varied considerably between and among Madhesis and Tharus. Among Madhesis overall, the largest percentage of respondents favored federalism based on East-West geography. Disaggregating IDA data on Madhesi opinion, support for federalism based on East-West geography was still the most widely preferred basis among Madhesi Caste groups (25.7 percent overall) and was relatively high among Yadavs (29.8 percent), Madhesi Dalits (33.1 percent), and Muslims (18.2 percent). In contrast, opinion among Tharus was divided regarding support for ethnic-based federalism (20.0 percent) versus federalism based on East-West geography (18.0 percent). Carter Center observers noted that Tharu citizen opinions regarding federalism are generally quite mixed throughout the Tarai.

Carter Center observers found opinion among Tarai Madhesis who support federalism to be highly divided regarding the prospects of “one Madhesh,”¹⁴ a multi-state Madhesh, or sub-states within “one Madhesh” which recognize Madhesi sub-identity based on culture or language such as Awadhi, Bhojपुरी, and Maithili. In Saptari, villagers near the Indian border were in favor of “one Madhesh” in which Madhesi culture would be recognized. In contrast, some older villagers in Nawalparasi opposed “one Madhesh” and stressed that it was important to recognize different cultural and religious rights. Sentiment regarding proportional representation appears to apply on at least two levels: there is a desire for greater Madhesi representation at the national level, and at the same time there is a desire to ensure that identity groups within the Madhesi constituency are represented adequately inside the Tarai itself. For example, a school teacher in Dhanusa said that while Madhesi leaders are speaking about “one Madhesh”, most people would rather have smaller states within the Madhesh and “equal representation in government institutions.” Thus, although many Madhesi villagers appear to favor “one Madhesh”, the sentiment for smaller states and equal representation was also echoed by a large number of villagers. One group of villagers in Dhanusa specifically mentioned a Tarai region sub-divided into three parts with Janakpur, Birgunj and a western Tarai city as the three regional capitals.

¹⁴The concept “one Madhesh” refers to the demand often raised by Madhesi political parties for the establishment of “one Madhesh, one pradesh” - a unified Madhesh province that would encompass the entire Tarai from East to West.

The most frequently cited reason among Madhesis who support federalism, regardless of the basis, is that they believe it will bring an end to discrimination. Many see autonomy as the most important means to this end and cite various examples of discrimination to underscore the need for an autonomous Madhesh state. For example, opinions varied on federalism within one Madhesi village in Rautahat, with one group of villagers having little or no interest in a Madhesh state, but very much concerned with equal rights and an end to discrimination; the other group of villagers stated the importance of an autonomous Madhesh because they continue to feel discriminated against and believe autonomy will bring this to an end. The villagers gave an example of a recent incident when the government reportedly opened 20 or more positions for forest ranger in the district and 400 candidates – Madhesi and Pahadi – applied and had to pass a test to qualify. According to the villagers, no Madhesi candidate was selected for the position. Moreover, the same villagers in Dhanusa who argued for a sub-divided Tarai also said that federalism was necessary because the Madhesh comprised “50 percent” of the population and contributed “80 percent” of the economic revenue, but a disproportionately low amount of money was being invested in the Tarai as opposed to the Hills.¹⁵

Tharu citizens throughout the Tarai also echoed a strong desire to see an end to discrimination. However, this sentiment did not appear to be accompanied by strong opinions regarding federalism. In particular, Tharu citizens are generally more interested in recognition of Tharu identity and rights to land based on historical premises. The desire for ethnic-based federalism among Tharus – particularly in the Mid and Far Western Tarai – appears to be in part a reaction to the prospect of Tharus losing recognition of their identity within a Madhesh state. For example, the majority of Tharu citizens in Banke expressed adamant opposition to the “Madhesi” label; one man emphasized clearly “I’m Tharu - we can’t be Tharu and Madhesi.” Similar sentiment was expressed in neighboring Dang, where another Tharu said “the Tharu were here, then the Madhesis came and they included us in them. Why should Tharu people be Madhesi?” However, in parts of the Eastern, Central and Western Tarai – where Madhesi citizens constitute a majority – opinion regarding the basis for federalism is generally more mixed, with some Tharus even sympathetic to the idea of “one Madhesh”. For example, in Nawalparasi, one citizen from the district’s Tharu minority supported “one Madhesh” saying that a “Tharuhat Pradesh” did not make sense in the district.

IV. INDIGENOUS & MARGINALIZED PEOPLES’ GROUPS

Indigenous and marginalized peoples’ organizations are composed of politically active Janajatis/Adivasis, Madhesis, Caste groups, women, Dalits, Muslims, and “backward region” citizens who are seeking to influence the constitution drafting process. They range from longstanding community-based groups to relatively nascent regional organizations, some of which are registered as political parties. Given their diverse nature, composition, and advocacy means, they cannot be considered as a collective entity. However, many share a common objective: to reshape Nepal’s political and social order in the new constitution and to promote demands that they believe will lead to greater inclusivity, equality, justice and fairness. Many independent ethnic-based groups and “state councils” – such as the Federal Limbuwan State Council (FLSC) and the Tharuhat Autonomous State Council (TASC) – have emerged in the past several years alongside groups that have been advocating for the rights of indigenous and marginalized peoples for decades – such as the Nepal Federation of Indigenous Nationalities (NEFIN), Dalit Welfare Organization (DWO) and Tharu Welfare Society (TWS).

The proliferation of indigenous and marginalized peoples’ groups can be characterized as a positive indicator of increasing political consciousness across ethnic, caste, and gender lines. Organizations which are rooted in social or cultural traditions - such as the Tamu Chhoj Dhi and Kirat Rai Yayokha - are also

¹⁵Observers in the Central Tarai noted that many villagers are under the impression that, in the Hills, “wherever there are two houses there is electricity, telephone and a road.” This claim has been made to Carter Center observers by multiple political leaders in the Central Tarai as a means of justifying the need for Tarai autonomy.

reportedly increasingly adopting political agendas. Meanwhile, groups which are grounded in political traditions are increasingly organizing public interaction programs, rallies, and other activities to increase awareness of their demands at the local level. While it is difficult to gauge the levels of popular support these groups enjoy, many are taking advantage of the political space that exists at the local level left open due to general political party inactivity and a perceived reluctance of mainstream parties to deal adequately with marginalized group issues. In some cases, longstanding groups, relatively nascent organizations, and political party wings have coalesced around common agenda items to form regional organizations or “struggle committees” – such the Tamsaling Joint Struggle Committee and Tharuhat Joint Struggle Committee – to strengthen their positions.¹⁶ In a few cases, national umbrella coalitions – such as the Federal Democratic National Forum (FDNF) and Indigenous Peoples’ Mega Front – have been established to promote collective demands across ethnic or caste lines.

While it is not possible to articulate every demand that is being raised by these groups, the Carter Center has found that some demands are being raised on a consistent basis. Among those common demands are: the creation of autonomous ethnic states; recognition of indigenous peoples’ rights concerning the management of natural resources; proportional representation in the public sector and electoral system; and the implementation of measures to promote social equality.

a. Federalism and Identity

i. Indigenous Peoples’ Organizations

Many indigenous peoples’ organizations are demanding ethnic-based autonomous states, stipulating that they are “necessary” or “the only way” to ensure that there is a decentralization of power. In particular, Carter Center observers commonly hear that discrimination can only end if autonomous states are established where decision-making power is vested in the indigenous and marginalized peoples. For example, a leader of the Tamuwan Joint Struggle Committee in Kaski claimed that the establishment of an autonomous Tamuwan state was the first step towards ensuring that Gurungs have equal rights while other Tamuwan leaders claimed that federalism was the only way to change the existing paradigm of “high caste centralized control.” Similar sentiment was expressed in the Far Western Tarai by representatives from Tharuhat groups, such as TASC, who argue that a Tharu state led by Tharu people is the only way to improve the Tharu condition.

Beyond the demand for autonomous states, representatives of some ethnic-based groups speak of the need for “special” rights¹⁷ to be granted within such states for members of indigenous communities. Concepts of what such rights would consist of and for who varies, from “strictly proportional” political representation among ethnic and caste groups within a given state to a “quota system” with priority consideration for indigenous peoples in recruitment for government positions and school admission. Proponents of special rights most commonly express to Carter Center observers that they do not intend for the rights of one community to come at the expense of another. For example, representatives of the Tamsaling Joint Struggle Committee stressed that, although the group is calling for a state that recognizes Tamang identity, all caste and ethnic groups would have equal opportunities. However, the demand for special rights seems to inherently imply that measures would be put in place for the benefit of one or multiple constituencies. Some within indigenous advocacy groups have questioned or even opposed the concept of giving one or multiple identity groups special rights over another. For example, one NEFIN representative in a Central Hill district said that he favored a Tamang state, but opposed special rights for Tamangs considering they comprised just one-fifth of the local population.

¹⁶While they may share some common demands, they may not share common means. For example, although some representatives of TWS in Sarlahi said that they support TASC demands for a Tharuhat autonomous state and proportional representation, they were opposed to the aggressive means allegedly advocated by Laxman Tharu.

¹⁷ These rights are also sometimes referred to as first rights, priority rights, or preferential rights.

Even among groups representing the same constituencies, opinion is often divided over whether special rights should be given to the recognized indigenous community in an ethnic-based federal state. One example of this kind of discrepancy can be found among Tharu groups in the Far Western Tarai where opinions range considerably over whether Tharus should be granted such rights in a Tharu state. A TASC representative in Kanchanpur said that Tharus should be given first priority for jobs, education and resources, explaining that “equal rights will be given to all communities except the Tharu communities.” Meanwhile, a leading Tharu civil society advisor believed that granting special rights to any one indigenous group was not a practical solution for uplifting marginalized people everywhere. Stressing the importance of equality of opportunity for all marginalized peoples, he said, “Tharu people should be able to work in Humla securely and people from Humla should be able to work in the Tarai securely.”

Some indigenous peoples’ groups demand that they be granted the right to political self-determination within a federal system. While different opinions exist regarding the extent of such rights, Carter Center observers have not encountered any groups who interpret it as the right to declare independence from Nepal. Rather, it is most commonly expressed as the right for smaller communities to be able to enjoy sub-autonomy within a given state, often based on the idea that such communities should be able to practice customary laws within a federal state. This is the rationale of the FDNF-affiliated FLSC led by Kumar Lingden¹⁸ which is advocating for ethnic minority groups such as Dhimal, Lepchha, and Yakkha to be granted sub-autonomy within a Limbuwan state. However, some smaller communities are demanding the right to self-determination as a measure of protection against the possible dominance of a majority group - this is the rationale of a Danuwar community organization in Sarlahi which believes that minority communities such as theirs should be able to decide their own fate within a federal state.

Proposed territorial maps for states vary considerably among indigenous groups. Justifications for territory range from historical land claims to modern day ethnic composition; regarding the latter, competing definitions of what constitutes a common identity complicates matters greatly. The debate among groups within the Eastern Region provides some key insight: the most consistent proposals among ethnic groups are presented by independent Limbu groups, such as the FLSC, which claims that a federal Limbuwan state should be based on the historical kingdom of Limbuwan which comprises the nine districts east of the Arun River. Similarly, the Swatantra Khumbuwan Sarokar Manch (SKSM) proposes a seven district state west of the Arun River based on the territory of the historical Majh Kirat. However, states proposed by several other groups such as the Khumbuwan Democratic Front and Kirat Rai Yayokha among others would encompass part or all of the proposed Limbuwan and Majh Kirat on both sides of the Arun River.¹⁹ Meanwhile, territory included in state proposal maps based on the historical Limbuwan or Majh Kirat would conflict with the concept of “one Madhesh” proposed by Madhesi political parties.

ii. In the Tarai

The issues of federalism and identity are most complex in the Tarai, where many groups reject the Madhesi label and in turn the concept of “one Madhesh”. The sentiment is most consistent among Tharu organizations: all representatives from Tharu groups interviewed assert that Tharu identity is distinct from Madhesi identity. Some Tharu leaders make the claim that Tharus, not Madhesis, are the true indigenous people of the Tarai and that a Tharu state is necessary to protect Tharu identity from being absorbed under

¹⁸In previous reports, the Carter Center referred to the FLSC faction led by Kumar Lingden as “FLSC-Lingden” however representatives of the organization have since requested the Center refer to it as the “FDNF-affiliated FLSC.”

¹⁹For example, Kirat Rai Yayokha is proposing a “Kirant Pradesh” encompassing all the territory of the historical Limbuwan and Majh Kirat; Khumbuwan Democratic Front is proposing a “Khumbuwan” state comprising 17 districts; and Khumbuwan National Front is proposing a nine district state with parts of Limbuwan and Majh Kirat: Udayapur, Bhojpur, Solukhumbu, Sankhuwasabha, Khotang, Dhankuta, Okhaldunga, Ramechhap and Sindhuli.

Madhesi identity.²⁰ However, different Tharu groups offer differing perspectives on what a Tharu state should look like and proposals vary regarding what territory would constitute such a state. Representatives from TASC, TWS and other Tharu organizations generally agree that the five districts of the Far and Mid Western Tarai should be part of a Tharu state while offering differing perspectives on how and whether parts of the Eastern, Central, and Western Tarai should be delimited. For example, TWS representatives in the Central Tarai wanted two Tharu states – one from Chitwan to Kanchanpur and another from Siraha to Jhapa; TASC representatives in Saptari also advocated for territory in southern Udayapur to be included in a Tharuhat state in the Eastern Tarai.

There are also an increasing number of identity groups rising within the Tarai which are either advocating for a truncated “one Madhesh” or calling for autonomous states or sub-autonomy within a Madhesh state. For example, representatives from Mecche, Santhal, and Dhimal community-based organizations interviewed in Jhapa rejected being labeled as Madhesis and – along with representatives from Jhangad, Kisan, Gangai, Majhi, Tajpuriya, and Rajbanshi communities – have formed a group known as the “Purvanchal Alliance” which is calling for a “Morang State” comprising Morang, Sunsari and Jhapa. In Dhanusa, some Maithili cultural groups are advocating for recognition of a Maithili province on grounds that Maithili is a distinct linguistic and cultural identity apart from Madhesi. Meanwhile, an organization known as the Danuwar Intellectual Community in Sarlahi is demanding self-determination for ethnic groups within federal states, specifically to allow for communities to obtain sub-autonomy within a Madhesh state. In Sarlahi and Dhanusa, citizens from the Dhanuk, Kewat, Kurmi, and Amat communities which also reject the idea of being considered as Madhesis, have formed an organization under the acronym “DKKA” and are seeking membership within NEFIN.

iii. New identity group advocacy

The trend of identity groups seeking recognition in response to larger Madhesi and Janajati/Adivasi movements appears to be increasing nationwide. In response to the mobilization of indigenous organizations demanding ethnic-based states, Chhetris have begun organizing their own movement. Within the last six months, the Chhetri Samaj was established in various districts to advocate for Chhetri demands, including foremost for Chhetri enlistment as an indigenous community. Chhetri Samaj chapters have been formed in districts such as Argakhanchi, Bhojpur, Gulmi, Kaski, Kapilbastu, Palpa, and Terathum; in November, the Chhetri Samaj organized a peaceful march through Pokhara that drew approximately 2,000 people. Participants chanted “no ethnic-federalism – no disintegration”; “long live ethnic harmony”; “Chhetri: son of the soil”; and “enlist Chhetri as Adivasi.” One female member of the Chhetri Samaj commented that “Dalits and Janajatis are getting their rights...so we want [our rights] too,” adding that she feels like Chhetris are being excluded from what is supposed to be a new inclusive constitution, and that is why she joined the group.

In the Far Western Region, three groups have emerged in recent months: in Kanchanpur, a small, loosely-organized group called the Hill Unity Society was formed in the fall of 2009 to preserve the rights of Pahadi people in reaction to Tharu and Madhesi movements (though it is reportedly currently inactive); in Accham, a small Bahun Society was formed in mid-January to demand recognition of the rights of Brahmins in the constitution; and in Baitadi, the Farwestern Awareness Forum organized a protest rally in mid-January against the proposed splitting of Far Western Tarai and Hill districts into two separate states. Finally, in the Central Hills, community-based organizations representing Chepangs, Jirels, Surels, and Thamias have all independently raised demands for sub-autonomy within whatever state is established.

²⁰This sentiment among Tharu groups appears strong. The TJSC organized protest programs in Chitwan in early March 2009 against being labeled as “Madhesis,” among other demands, in which reportedly three people died (“OCHA Nepal Situation Overview,” Issue Number 43, Kathmandu, 16 March 2009).

b. Management of Natural Resources

A common demand among many indigenous groups is that they be given rights regarding the management of natural resources to ensure fair use and fair investment. Some note that excessive logging and extraction of stones from rivers has led to environmental degradation that affects the way of life of indigenous peoples. The depletion of these resources has left local populations vulnerable in some cases and a few groups have begun taking it upon themselves to prevent further degradation. For example, the KDF in the Beltar area of Udayapur has deployed its Khumbuwan Volunteers to spearhead a local protest to stop the extraction of stones and sand from a quarry which is allegedly putting the area at risk of landslides.

The demand for management of natural resources is often linked to implementation of International Labour Organization Convention 169 (ILO 169), which calls for special measures to be implemented and grants indigenous peoples a greater say regarding land use, natural resources, involvement in local development, and consultation regarding legislative or administrative measures which may affect them directly.²¹ Many organizations emphasize the need for implementation of ILO 169 by citing historical seizures of land belonging to indigenous peoples and excessive exploitation of resources or a lack of investment of revenues back into communities. Using this justification, for example, TASC has deployed members of its Tharuhat Army to protect natural resources from excessive exploitation in the Eastern Tarai.

In many districts, groups such as NEFIN as well as representatives of Khumbu, Kirat, Limbu, Magar, Tamang, and Tharu groups among others are educating members and citizens about ILO 169. However, interpretations of what ILO 169 guarantees vary among indigenous groups. For example, while supporting the need for implementation of ILO 169, representatives from the FDNF-affiliated FLSC stressed that it should not be interpreted as giving any community a monopoly over the use of local resources. More often, the demand for implementation of ILO 169 is sometimes interpreted by groups as special rights to indigenous peoples and is used as an advocacy tool for advancing their agendas. As referenced in Carter Center reports of August and November 2009, some groups are implementing ILO 169, for example through “tax” collection, as a means of pressuring the government to align its laws with the convention. Tharu groups have been particularly active in using ILO 169 as an advocacy means. In the Mid and Far Western Tarai, TASC representatives argued that because Tharus are the indigenous people of the Tarai they therefore “own” the land and the resources. Representatives from BASE in Dang told villagers that Tharus have special rights under ILO 169 because “we” cleared the land in Dang and were the area’s original inhabitants.

c. Proportional Representation

Similar to what Carter Center observers have heard from citizens directly, the demand for proportional representation is common among indigenous peoples’, Madhesi, Dalit, women’s, and Muslim organizations. When asked about where they would like to have proportional representation, they emphasize the public sector (government offices, civil service, security apparatus, and others) at the national and local levels, as well as in the electoral system.²² While groups representing all constituencies cite the need for proportional representation, the demand is generally a top priority for Dalit, women’s, or Muslim groups who feel they may not benefit as much from federalism because they are not concentrated in any one area. For example, the Oppressed Community Upliftment Center (OCUC) in Gulmi, which

²¹As noted in the Carter Center’s August and November 2009 reports, ILO 169 was ratified by the government of Nepal in September 2007, in compliance with clause 11 of the agreement between the government and Janajatis signed on 7 August 2007. The government has created an ILO 169 action plan that is current pending in Cabinet; however, the Convention states that it comes into effect 12 months after signing.

²²As noted in section II, many groups understand the idea of proportional representation in the context proportional electoral system introduced before the 2008 CA elections based on population data.

advocates primarily for Dalit rights, proposed a direct proportional representation system based on demographic distribution at the national and local level. A representative from the National Muslim Forum (NMF) in Banke spoke of the importance of proportional representation in all branches of government, especially the judiciary, education system, and legislature-parliament, where he believed that Muslims were underrepresented. Kopila Nepal, a women's empowerment organization that comprises 90 women's groups in the Western Hills, demanded that women should enjoy 50 percent representation in government.

d. Social Equity

Demands for measures that would ensure social equity are common across all groups, and mirror demands of citizens. Such measures are of primary importance to Dalit and women's organizations as well as smaller groups representing landless or backwards region communities. For example, all Dalit groups interviewed, including the Dalit Welfare Organization, the Dalit NGO Federation, Legal Rights Forum, and others have cited an end to "untouchability" as the most important constitutional issue and a large number of groups demand that it be regarded in the constitution as a crime against humanity. Groups representing Kamaiyas and Haliyas, such as the Haliya Mukti Samaj, have also demanded free education up to tenth grade for their children as well as the right to skills trainings and job opportunities. Among groups representing some of the most marginalized communities such as Rautes and Byansis, the right to citizenship is raised as a constitutional demand.

V. POLITICAL PARTIES

a. Constitutional Activities

Many political party representatives said they are conducting public constitution awareness raising activities at the local level; however, when asked to describe such activities, most party representatives say that awareness-raising is part of general party activities. UCPN(M) representatives often describe their protest programs as constitutional awareness-raising. For example, when asked about what constitutional activities they were conducting, Maoist representatives in Syangja said they had visited dozens of VDCs in August to inform citizens about their protest programs which were to explain why the current UML-led government would "never write the constitution on time." Carter Center observers have noted that, aside from Maoist protest programs, few general public activities – and even fewer public activities related to the constitution – have been organized by any political parties. For most parties, their main constitutional activities at the local level took place during the February/March 2009 public opinion gathering process organized by the CA. As noted previously, only 7 of 337 people selected at random and interviewed by The Carter Center claimed they had participated in a political party event related to the constitution; three of those seven citizens said they had participated in a Maoist protest program in which the constitution was discussed.

Some party representatives claim the lack of public activities related to the constitution is because there is no central direction to do so. In multiple districts, NC representatives claimed to have not run any public constitution-related programs since the public opinion gathering process, and in one district described their own party as "apathetic" on the issue. A UML representative in Mustang was hopeful that the party would soon receive the necessary direction to move forward, while a Sadbhavana party representative in Bara noted that party members in the district learn of the central-level party stance regarding the constitution from the media. Furthermore, when party activities related to the constitution are organized, they are often confined to internal efforts to inform the party cadre about the party's position; there is no indication that public awareness raising activities are then subsequently conducted. In Parbat, UML representatives said they had held a local party meeting to discuss constitutional issues while NC representatives said they sent suggestions to the NC central committee for consideration.

The main exception has been the Rastriya Janamorcha (RJM) party, which is active at the local level across the country. The party has organized events such as rallies and debates to publicize the party's anti-federalism position. In July, RJM organized a public debate in Chitwan between party leader Chitra Bahadur KC and Narahari Acharya that was attended by supporters of a range of political parties. In Pyuthan, RJM has been organizing a series of public programs against federalism; in early September, the party hosted an event attended by more than 100 persons. Also in September, RJM organized an interaction program on "Federalism in Nepal in the Present Context" in Baglung that was attended by political parties, civil society, and professional associations; additionally, observers watched the closing ceremony of an RJM-student wing event in Burtibang VDC that was attended by 370 participants. In Dadeldhura, RJM has been visiting VDCs to conduct awareness raising programs against federalism, primarily focusing on educating students about the party's position. Observers have noted that RJM activities appear to draw support from citizens who are not necessarily RJM supporters, but are interested in understanding more about federalism. Finally, in December 2009 and January 2010, RJM also organized multiple bandhs against federalism, restricting vehicle movement and affecting daily life around the country and in the Kathmandu Valley.

b. Views on Federalism

Local level party representatives generally defer to central-level positions on federalism, even when their personal opinions contradict their parties'. The most notable exception is among Maoist and UML representatives in the Far Western Region, who have expressed dissatisfaction with their party proposals, particularly the proposed division of the region. Maoist CA Member Lekh Raj Bhatta spoke against his party's proposal by claiming that the majority of citizens in the Far Western Region are against its division into a Seti-Mahakali state (comprising seven Hill and Mountain districts) and a Tharuwan state (encompassing the region's two Tarai districts).²³ Bhatta emphasized the need for the Maoists to move the debate on state restructuring back to "class, not caste" and away from ethnic-based federalism. Meanwhile, UML district leaders from the Mahakali Zone expressed similar concern over separating the region's two Tarai districts from the rest of the region and confirmed that UML leaders from the Far Western Region have expressed dissent over the party's proposal. In mid-September, when UML Chairman Jhala Nath Khanal attended a party program in Mahendranagar, UML district leaders from Baitadi, Darchula, Dadeldhura, and Kanchanpur reportedly issued a strong statement of dissent on the party's plan to establish Tharuhat and Khaptad states. Dissent from central-level party positions on federalism has been noted elsewhere at the local level as well, such as in the Eastern Region where the Limbu Rastriya Mukti Morcha (the Limbu wing of the UCPN[M]) has allegedly expressed dissatisfaction with the boundaries of the party's proposed Limbu state.

VI. UCPN(M) DECLARATION OF AUTONOMOUS STATES

As part of its third phase of protest programs, the UCPN(M) organized a controversial series of events from December 11-18, 2009 to declare autonomous states unilaterally, in line with the party's proposal for state restructuring. The programs were heavily criticized by the government and many political parties as being against the Comprehensive Peace Accord (CPA) and an infringement on the role of the Constituent Assembly. The Carter Center directly observed 6 of the 13 state declarations (Kochila, Madhesh, Magarat, Newa, Tamsaling, and Tharuwan) and gathered information on three others (Limbuwan, Seti-Mahakali, and Tamuwan). Observers also gathered information on the Kirat state declaration that was held on November 9 during the second phase of protest programs despite an announcement of its postponement by the Maoist central leadership.

²³CA Member Lekh Raj Bhatta's opposition to UCPN(M) state restructuring proposals for the Far Western Region has been noted publicly; see, for example: "Ethno-centric federalism: End of the era of Pan-Nepalism" by Jainendra Jeevan, *My Republica*, 15 October 2009 and "From the frying pan?" by Purna Basnet, *Nepali Times*, Issue 438, 13-19 Feb 2009.

Senior Maoist representatives emphasized the symbolic nature of the declarations and stated that their objective was to advance the constitution drafting process. A “state-in-charge” was named at each event, except the Seti-Mahakali declaration. Maoist representatives claimed that the designation of a state-in-charge did not signify the establishment of parallel governments, although Maoist Chairman Pushpa Kamal Dahal “Prachanda” publicly stated at the Newa state declaration that these governments would be operationalized in the event of a “conspiracy” against federalism or the peace process. At most events, state maps were displayed with borders delimited around existing districts. Maps of the Tamsaling state were being sold in Nuwakot for NRs 10 though Maoist representatives said the maps were proposals only and were subject to change.

Inclusivity was a theme of the declarations, with many presentations made in local languages and cultural programs organized to recognize the ethnic diversity of the proposed states. Maoist representatives downplayed the political significance of state names and addressed concerns of “domination” by one ethnic group. At the Tamsaling declaration, multiple speakers stated that a state named in honor of the Tamang people did not imply Tamang rule. Similar sentiment was expressed at the Tharuwan and Magarat declarations where emphasis was placed on acknowledging all ethnic and caste groups present. The Madhesh declaration was described by observers as a “balancing act” between Maoist recognition of demands for “one Madhesh” and aspirations of small communities. Maoist representatives emphasized Madhesi rights, but also named Awadh, Bhojpura, and Mithila “sub-states-in-charge.”

Event attendance ranged from as few as an estimated 500 people at the Seti-Mahakali declaration in Doti and 1,000 at the Limbuwan declaration in Terathum to between 10,000 and 15,000 at the Madhesh, Tamuwana, and Tharuwan declarations in Dhanusa, Kaski, and Banke, respectively and an even higher number at the Newa state declaration in Kathmandu. The majority in attendance appeared to be Maoist cadres from the district or brought in by bus from nearby districts. For the Magarat declaration, the Maoists reportedly provided up to 50 buses and 30 jeeps to transport people from nine districts resulting in an audience of approximately 8,000 people. Observers noted that low turnout for the Seti-Mahakali declaration was likely attributable to a combination of factors, including low support among citizens in the Far Western Hills for the proposed division of the Far Western Region and seeming confusion among local UCPN(M) leaders about directives for how to organize the program. In Terathum, interviewees told observers the Maoists were unable to muster significant support due to party weakness in the district coupled with citizen disapproval for the Maoist-proposed five-district Limbuwan.

Composition and enthusiasm levels among audiences ranged widely. Because most of those in attendance appeared to be Maoist cadres or supporters, it was difficult for observers to gauge the significance of the declarations to ordinary citizens present. Observers reported noticeably high levels of excitement among citizens from the Newar and Tamang communities at the Newa and Tamsaling declarations, respectively, but noted that enthusiasm among citizens in the mixed audience at the Kochila declaration appeared high mainly due to the festive nature of the event. Crowd enthusiasm levels were seemingly lower at other declarations observed. At the Magarat declaration, when speakers sought to engage the audience by announcing, “Long live the Magarat state” only a few dozen among the several thousand in attendance responded in chants of support. At the Madhesh declaration, observers reported that the number of passive spectators easily dwarfed the number of enthusiastic participants. Additionally, observers noted that a large number of citizens who attended were not necessarily supportive of the declarations nor did they fully understand the aims of the event. Most citizens interviewed at the Kochila, Madhesh and Magarat declarations had little to no awareness of the substance, but were curious to witness the spectacle of the event and cultural programs that were organized.

Non-Maoist political party representatives echoed central level criticisms that the declarations were in breach of the CPA and expressed concerns that parallel governments would be formed. A UML representative in Kaski told observers that the declarations would have a negative impact on social cohesion, specifically, that the announcement of states recognizing ethnic identities served to “upgrade

certain groups while ignoring the others.” Some political parties organized events in protest or publicly denounced the declarations. Supporters of the Bijay Gachhedar-led MJF-Loktantrik organized a sit-in demonstration within one kilometer of the Maoists’ Madhesh declaration. In Kaski, NC and UML student wings shut down educational institutions in protest of the Tamuwani declaration. Two days after the Tharuwan declaration, the Upendra Yadav-led MJF-Nepal criticized the Tharuwan declaration as undermining Madhesi party demands for “one Madhesh”.

Several non-Maoist-affiliated indigenous peoples’ groups welcomed the Maoist declarations and attended the events. While NEFIN centrally took no official position on the Maoist state declarations, local representatives from NEFIN and the Nepa Party attended the Newa declaration and said they welcomed the announcement. The Tamuwani declaration was supported by several Gurung and non-Gurung groups, including NEFIN, Tamu Chhoj Dhi, Nepal Magar Sangh, and Nepal Kumal Sangh. The local NEFIN president noted that the Maoist-proposed Tamuwani was the same as the NEFIN-proposed Tamuwani and said the declaration was a step forward in creating a just and equal society. A senior leader of the Tamu Chhoj Dhi, told observers that the group would support any party that declared a Tamuwani state. Positive sentiment was also expressed by SKSM representatives, who were pleased regarding the Kirat declaration in November, calling it the first announcement by a political party in favor of the Rai people. The Khumbuwan Democratic Front expressed similar sentiment, claiming that the Maoists are the only political party taking action on the issue of ethnic federalism.

A few indigenous peoples’ groups were critical of the declarations although most criticism was centered on disputes over delimitation rather than principle. The FDNF-affiliated FLSC organized a protest rally against the Kochila declaration nearby to the Maoists’ event. At the 1,500-strong rally, the group expressed strong objection to the Maoist-proposed Kochila state because it conflicts with the FLSC-proposed nine-district Limbuwan. In early January, the United Limbuwan Front Nepal (ULFN), an umbrella coalition of nine different Limbu organizations including the Maoists’ Limbu party wing, organized joint events in Itahari, Morang, Dhankuta, and Sankhuwasaba warning of retaliation against the Maoists if the party did not withdraw its declarations of Kochila and Kirat states. FLSC faction leaders Kumar Lingden and K.P. Palungwa accused Maoist leadership of undermining Limbuwan and announced plans to organize protest programs against the move. Lingden further claimed FLSC would stop any restructuring of the state that goes against the historical nine-district Limbuwan.

Meanwhile, the Kochila Autonomous State Council has called for a round of protest programs against the Maoist Kochila declaration on the grounds that the Maoist proposal is not in line with the historical map of Kochila. Similarly, Tharu representatives in the Mid and Far Western Tarai disapproved of the Maoists’ declaration and map for a Tharuwan state, though they did not publicly protest the event at the time. Tharuhat groups, Tharu NGO leaders, and NEFIN representatives in the Far Western Tarai have since strongly denounced the Tharuwan declaration in public meetings and workshops held in Kailali district. TASC believes that a Tharuhat state should include the districts of the entire Tarai and that a five district-Tharuwan is a conspiracy to divide the Tharu people. Similarly, BASE expressed displeasure arguing that a Tharu state should consist of six districts in the Western, Mid, and Far Western Tarai.

Finally, the Maoist declarations have prompted some groups to respond by declaring their own states. One week after the Maoist state declarations, the Joint Newa Struggle Committee, an umbrella grouping of 31 Newar organizations including all major political party wings, declared a Newa state in Kathmandu. The December 27 event was attended by as many as 10,000 citizens according to a Kathmandu Post estimate and was endorsed by high-ranking NC, UML and Maoist representatives. Unlike the Maoist declaration, specific details about political, economic, educational, and language policies were announced. UML central committee member Rajendra Shrestha allegedly supported the declaration while NC representative Tirtha Ram Dongol reportedly said that the CA would work for a Newa state. Meanwhile, in January, KDF held a symbolic Khumbuwan state declaration in Bhojpur to protest the Maoist declaration of a Kirat state.

VII. CONCLUSION AND RECOMMENDATIONS

This report depicts a nation in the midst of a significant political and social transition, engaged in the challenging process of determining what the future Nepal should look like. In order to ensure public support for the new constitution, it is clear that political leaders should pay careful attention to citizen desires on issues such as: education; jobs; access to the state; use of language; preservation of culture; political representation; uplifting minorities; ending discrimination; and access to justice.

On the important issue of federalism, most citizens continue to lack impartial and accurate information about how a new federal system will affect their lives. Those who favor federalism seem to do so because they believe that it will result in decentralization and thus greater access to decision-making, state services, and equitable representation. At the same time, other citizens express concerns regarding the impact of federalism – that it may “disintegrate” the country, result in communal conflict, “cut off” the flow of people and goods, or “trap” people within underdeveloped states. The information vacuum on federalism that exists has provided space for three main actors – indigenous peoples’ organizations which support ethnic-based federalism, the anti-federalism RJM, and the Maoists – to frame the debate on state restructuring at the local level thus far.

Indigenous and marginalized peoples’ groups are seeking to reshape Nepal’s political and social order through the new constitution. The increasing activity of nascent political groups and longstanding social organizations that have adopted political agendas is reflective of rising political consciousness across Nepal, particularly amongst groups that have been historically poorly represented. This should be welcomed and those promoting agendas in a peaceful and democratic manner should be heard and respected by political leaders, in order to ensure broad acceptance of the new constitution.

The question of how to accommodate Nepal’s diverse identity groups within a new federal system is an extremely challenging one and, if not carefully managed, one that can easily lead to resentment between different groups and a backlash against the idea of federalism itself. This report highlights the continued desire of Nepali citizens of *all* groups for measures to promote equality, communal harmony, an end to discrimination, uplifting of the historically marginalized, and a more accessible, accountable government. All of these desires can and should be accommodated in any new system, and provide a strong base to build upon for the future.

The Carter Center wishes to thank the Nepali government officials, political party representatives, civil society members, representatives of indigenous and marginalized peoples’ groups, members of the media, international community representatives, and common citizens who have generously offered their time and energy to facilitate this report. The following recommendations are put forward in the spirit of cooperation and respect to CA members and organizations who are providing financial or technical assistance to the CA. The Center hopes that they will provide useful discussion points for future action.

- **Conduct an impartial and accurate awareness campaign about federalism at the local level.** A public information campaign to provide impartial and accurate information about what federalism could look like at the local level would be a positive step towards informing citizens and clarifying misunderstandings. Emphasis should be placed on the benefits of federalism, such as decentralization, while efforts should be made to reduce widespread concerns, such as disintegration and conflict. Consideration should be given to simple efforts such as community dramas or civic education volunteers in the style previously used by the Election Commission.
- **Widely publicize basic information regarding the constitutional process to inform citizens of progress achieved and ongoing debates within the CA to date.** Little information about the constitutional process is reaching citizens at the local level. Consideration should be given to simple efforts such as appropriately timed radio call-in programs, public debates, community dramas, or

civic education volunteers.

- **Conduct a genuine public consultation on the draft constitution which informs citizens of how the new constitution will impact their daily lives and incorporates “lessons learned” from the previous outreach program.** To ensure that the constitution is accepted by the people of Nepal, the CA must be prepared to address citizen desires and expectations. The public consultation provides a good opportunity for the CA to inform citizens about their work to date and the provisions likely to be included in the new constitution. Consideration should be given to simple methods such as civic forums and town-hall meetings as well as more systematic methods like focus groups if time permits. The CA should ensure that it incorporates the lessons learned from the previous consultation period, such as avoiding providing information that is too technical, requires extensive literacy skills, or is only in Nepali. Donors should consider making this a condition for support, and should continue to work with the CA to maximize the effectiveness of the consultation process.
- **Increase efforts to engage in dialogue with indigenous and marginalized groups that are using peaceful and democratic means to raise their demands.** The issues raised by indigenous and marginalized groups that are outside the constitutional process should be acknowledged by the CA to ensure broad acceptance of the new constitution. Attempts should be made to engage these groups in dialogue that would allow for constructive debate on key issues of contention. One way would be through a “stakeholders conference” attended by senior leaders of all major political parties and advocacy group representatives to exchange views on issues related to federalism. The international community should also consider organizing workshops with CA members and indigenous and marginalized groups at the local level to facilitate constructive dialogue.