

National Consultation on Integrated Strategies in Promoting the Rights of Indigenous Peoples/Nationalities in Nepal

Summarized by Parshuram Tamang and Karl-Heinz Kraemer

National Consultation on Integrated Strategies in Promoting the Rights of Indigenous Peoples/Nationalities in Nepal was held at Dhulikhel in Kavre District (Central Nepal) from January 16 - 20, 2000. It was organized by Nepal Federation of Nationalities (NEFEN), Federation Council, Kathmandu and Minority Rights Group International, London. The central consultation was preceded by two regional meetings: Eastern regional consultations were held on 4 - 5 January, 2000 at Dharan, Sunsari District, and Middle and Western regional consultation on 7 - 8 January, 2000 at Narayanghat, Chitwan District.

The central meeting at Dhulikhel was participated by different representatives and office holders of NEFEN, legal professionals, intellectuals, representatives of indigenous peoples' organizations, representatives of different political parties, human rights activists, former members of Parliament, a former member of the Constitution Drafting Commission of 1990 and members of the Indigenous Women Organization. Altogether 59 delegates participated in the national consultation held at Dhulikhel, among them 17 women.

The main objectives of the meeting were

1. to review the developments pertaining to the protection and promotion of the rights of indigenous peoples/nationalities in Nepal,
2. to identify the constitutional common legal provisions and statutes affecting indigenous peoples/nationalities in Nepal,
3. to consider the use of international bills of rights, declarations, covenants, agreements, other constructive arrangements and emerging rights and declarations regarding the rights of indigenous peoples in the context of Nepal,
4. to identify the legal and other provisions affecting the rights of indigenous women of Nepal, and
5. to develop policy recommendations for promotion and protection of the rights of indigenous peoples/nationalities and the strategies to achieve them.

Inaugural ceremony

On the occasion of the opening ceremony, the chairman of the National Assembly, the upper house of the Nepali parliament, Honorable Dr. Mohamad Mohsin, the former Speaker of the House of Representatives, ex-member of the Constitution Recommendation Commission of 1990 and Senior Advocate, Daman Nath Dhungana, human rights leader, ex-minister and the chairman of the Nepal Bhasha Manka Khala, Mr. Padma Ratna Tuladhar, the Indian representative from Minority Rights Groups, Krishna Das, the Secretary General of NEFEN, chairman of the Nepal Tamang Ghedung and South Asian co-ordinator of the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests, Mr. Parshuram Tamang gave their opening statements. Dr Mohamad Mohsin said: "There must be proper definition of nationalism. Indigenous peoples/nationalities do not have good participation in executive, legislative, judiciary

and party leadership. It is high time for studies in nationalities issues. Now the minority is ruling over the majority people. The government is not able to represent the majority. There must be more indigenous representations in the parliament. When others speak it becomes progressive, and when the indigenous peoples/nationalities speak then they are regarded as extremists, separatists and communal. In this situation, how can there be balance and equal distribution of powers. The people must be represented in the power structure. There must be a master model of nationalism. It must contain the identities of indigenous peoples/nationalities. The state must be participatory and continuously accommodating. It is the need of the hour to democratize the democracy of the country. At the decisive level of the party politics, pressure must be put to redefine nationalism and create a conducive environment for the indigenous people to make a work plan for the fulfilment of their wishes, aspirations and rights. Then only the point of power balance can be achieved."

Padma Ratna Tuladhar said: "To resolve the national problems, like human rights problems, racial problems and religious problems, must be discussed. NEFEN has made agitation and led delegations on different relating issues. It is imperative that the government and the different political parties must give attention in this matter. The problem of indigenous peoples/nationalities is complicated and related with land and human rights. The UN is planning to form a Permanent Forum for indigenous peoples in the UN system to raise the social, cultural and political rights of the indigenous peoples of the world. Even at the time when the UNO declared the Year of the Indigenous Peoples, His Majesty's Government of Nepal (HMG) did not even form a national committee. Then NEFEN formed it on its own initiative. We are greatly neglected by HMG, and we are also oppressed. Even though the UNO guarantees the Right of Self-determination when we speak in our language and follow our culture, we are accused of separatist and communal feelings. But whatever we do is for the nation."

Krishna Das said: "It is a world-wide phenomenon that the tribal/indigenous peoples have identical problems of human rights and identities. Indigenous peoples are suppressed and neglected. The immediate need of indigenous peoples is to satisfy their basic needs like education, health and nutrition. The other problem is related with empowerment. On the question of awakening them and empowering them, they need education on the legal system and legal provisions which ensure their rights."

Daman Nath Dhungana, one of the architects of the constitution of 1990, denied any shortcomings of the constitution when he said: "Our constitution has accepted that Nepal is a multiracial, multilingual and multireligious country. The main accusation against the constitution is that it is not implemented in practice. This is the fault of the party politics, their national views and perspectives. I don't think that the constitution is lacking in any way. National identity is as important and necessary as our individual identities, but it is of greater significance."

Parshuram Tamang objected: "The Universal Declaration on Human Rights, in its preamble, clearly states that the state should recognise and respect the fundamental freedom and human rights of the people. When a country is not able to follow the path of proportional and balanced development approach, injustice, suppression and discrimination will continue to exist in the society. Where there is oppression, there is revolt and rebellion naturally. The constitution of 1990 came out with some discriminatory provisions and it could not adequately address the aspirations of the indigenous peoples of Nepal. Even, indigenous peoples could not feel and see the indication of improvements in the past ten years of democratic practices too. Therefore,

in order to get rid off the entire problems peacefully, there is a need to null and void all the discriminatory articles of the constitution and laws and to add new provisions to ensure the rights and interests of indigenous peoples/nationalities. Therefore, we have invited the representatives of different political parties and walks of national life in this consultation. In totality, I am confident that this consultation will help to find out the ways and means to remove the legal discrimination and to help to rebuild the country for all. This consultation is our genuine and sincere effort to ensure the rights of indigenous peoples to avoid possible future conflicts”.

Presentation of papers

Prof. Dr. Kamal Prakash Malla, the advisor of NEFEN, presided over both the presentation sessions . In the morning session Dr. Om Gurung, Lecturer of the Central Department of Anthropology and Sociology, Kirtipur Central Campus, T.U., Advocate Mukti Pradhan, Advocate Durga Subba, Advocate Thaindra Angbuhang, and Parshuram Tamang, General Secretary of NEFEN, presented working papers on the review of the developments pertaining to the protection and promotion of the rights of indigenous peoples/nationalities in Nepal, the identification of the constitutional and legal provisions affecting indigenous peoples/nationalities in Nepal, and the consideration of the use of international bills of rights, declarations, covenants, agreements, other constructive arrangements and emerging rights and declarations regarding the rights of indigenous peoples in the context of Nepal respectively. The Executive Director of the National Nationalities Development Committee (NNDC) at the Ministry of Local Development, Dr. Chaitanya Subba had supplemented Dr. Gurung's paper. In the afternoon session, 21 participants commented on these papers presented in the morning session, asked various questions, put their queries and gave suggestions. The program was conducted by Bal Krishna Mabuhang, Foreign Secretary of NEFEN.

Om Gurung's paper

Om Gurung, in his paper on the topic "Reviews of the developments pertaining to the protection and promotion of the rights of indigenous peoples/nationalities in Nepal", expressed his views that the achievements of NEFEN and the National Committee for the Development of Nationalities under the Ministry of Local Development are so far positive but cannot be called satisfactory. Dr. Gurung said, "After the conquest of the present territory of Nepal by the Gorkha regime in the late eighteenth century, the indigenous peoples/nationalities who were out of Varnashram (caste) system, were included into the categories of the Varna system, and were compelled by law to accept the norms and values of Hindu religion and culture. After that there came drastic changes in the life-styles of the nationalities. Such changes were not natural but the result of compelled strategies. The indigenous peoples had to follow to adjust themselves with the changing political and social environment." He said, "NEFEN has been raising the issues to declare Nepal as 'multicultural' and 'secular' state; to constitute the National Assembly of the parliament as House of Nationalities; to establish national autonomy for indigenous peoples by recognising their right to self-determination; to create a Ministry and Central Institute (Academy) for nationalities; to impart education in the mother tongues; to abolish the compulsory Sanskrit education from general education and the Sanskrit news broadcast from Radio Nepal; to broadcast various programmes in indigenous languages through government owned

communication media; to provide certain quota/reservation for nationalities in education, scholarship, government employment and politics; to make public the policy of political parties on indigenous peoples; to omit the errors and defects of the population census; to publish true statistics regarding languages and religions; to formulate special laws to protect and promote the languages, religions, cultures, scripts, arts, literatures, knowledge, skills and technologies of indigenous peoples; and to amend the articles of the constitution and other related laws that are contrary to the rights and welfare of indigenous peoples/nationalities, etc". He further expressed, "NEFEN has clarified the concept of indigenous peoples/nationalities, its vision and mission and enlarged its organizational base at national level and extended its activities to the international level. At present NEFEN consists of 31 member organisations and one co-member. It had 8 members ten years ago ". He was of the opinion that NEFEN's role is seen as a guardian rather than a participant or co-traveller. It has not been able to integrate all the 61 tribal groups. He indicated, "The government has started to broadcast news and other programmes in different languages by Radio Nepal; the National Languages Advisory Commission has been constituted, but its suggestions have not been executed; The National Committee for International Decade of the world's Indigenous Peoples has been constituted but not activated, the list of 61 nationalities has been approved, the NNDC under the Ministry of Local Development has been formed, the taskforce regarding the establishment of National Academy for the Upliftment of Nationalities has been composed, but the bill regarding its constitution has not been presented in the parliament; provision has been made to include one representative from nationalities in the Village Development Committees (VDC) and the policies and programmes regarding the nationalities have been included in the 9th plan. He was of the view that while constituting the present NNDC, the government has not accepted the representatives of NEFEN violating the agreement during the formation of NNDC, and instead of giving attention towards the needs of indigenous peoples/nationalities, it has become the recruiting centre of ruling party workers and a place to serve the interests of non-indigenous peoples, ministers and bureaucrats. Chaitanya Subba added that from the past up to the present the government has been displaying two types of behaviour towards the indigenous peoples/nationalities: one, destruction of their culture, social system and structures; and the other, a kind of physical genocide. He said, "The past rulers were enslaving the general people by accelerating the process of Hinduization, internal colonization and power centralization.

Paper of Durga Subba, Mukti Pradhan and Thaindra Angbuhang

The advocates' paper said that the majority of Nepal's total population are indigenous peoples/nationalities. They were autonomous and self-ruled before the establishment of the present kingdom. Those peoples who were displaced by the Gorkha conquest, have still not been empowered with equal political, economic, cultural and religious rights. The concepts of welfare state, cordial relations between the state and the citizens, democratic governance, etc. have not been effective in Nepal. This is because of unwillingness on the part of the ruling class to recognize the concrete reality of multiethnic, multilingual, multireligious, multicultural and the diverse geographical conditions of Nepal. The paper argued that the constitution of Nepal as the main law of the land is unable to represent the feelings and aspirations of the indigenous peoples/nationalities and different language communities of the country. Therefore a 19-point proposal for amendments of the present constitution of the kingdom of Nepal,

2047 was put before the meeting for consideration. The proposal includes; to establish a provision of referendum or election of constitutional assembly with an objective to amend the constitution; to constitute a House of Nationalities in place of the National Assembly; to declare Nepal a secular and multireligious state to replace the Hindu kingdom based on the conservative concept of Hindu caste based system; to void the provisions that have prohibited indigenous peoples/nationalities, directly or indirectly, from exercising their fundamental rights and freedoms as freedom of organisation and expression; to recognise all the languages as national and official languages; to remove the provision of the cow as national animal, etc.

Likewise Durga Subba indicated the need to review, evaluate and appraise the whole laws stating that there is a need of amendments, additions, dilutions and reinterpretations of current laws in order to safeguard the rights and interests of indigenous peoples/nationalities. Out of 39 special laws, he mentioned 34 special laws which need amendments, additions and reviews. The participants also indicated the need to amend a number of sections of the Muluki Ain (Civil code) comprising wages, citizenship, building construction, land cultivation, registration, husband-wife relationship, jari system (the system of paying marriage expenses to the ex-husband of a married woman whom one wants to marry), marriage system, etc.

Later, a working group discussed the legal aspects in detail. Presenting the report on behalf of this group Krishna Bhattachan said, "The great problem before us was that about 39 laws were listed by the advocates for amendments. Our group has accepted all these proposals fundamentally. On this basis, accepting the rights to self determination for their all round development, we have proposed to demand the self-government of indigenous peoples for their social, cultural and political development, as it is a fundamental. Again under the present Local Self-government Act, the local administrative units are all the 75 District (DDC) or 4000 Village Development Committees (VDCs), which are not created in accordance with the interests of indigenous peoples. At the same time these units are not represented by the indigenous groups. Therefore, we demand for the redivision and reorganization of these units on the basis of region, language, population where indigenous peoples are over-populated. Election system should be arranged in such a way so that the majority people of the concerned area may be represented. As the intellectual property right does not safeguard the customary rights of the indigenous people's customary rights act should be framed. For the access, control and management of indigenous groups over their traditional lands and other resources, the concerned laws should be amended. The participation of indigenous peoples should be ensured in the National Wild Life Conservation Fund and other government and non-governmental organizations. The National Nationalities Upliftment Academy Act, Educational Act, Health Act, National Heritage Protection Act, Employment Act, and so on should be framed.

Parshuram Tamang's paper

Presenting his paper on "the consideration of the use of international bills of rights, declarations, constructive arrangements and emerging rights and declarations for indigenous peoples in the Nepalese context" Parshuram Tamang said, "Whatever our advocate friends have presented are the main contents of this consultation. It are the fundamental issues to be dealt here. There are many international declarations. The first and foremost is the Universal Declaration of Human Rights (UDHR) which has established a set of principles concerning the rights of all peoples in the world. The

UDHR, in its preamble, recognises that the inherent dignity and the equal and inalienable rights of all members of the human family are the foundation of freedom, justice and peace in the world and states. According to article 2, everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. There are covenants or treaties and protocols to execute these principles established by the UDHR. The first is the International Covenant on Civil and Political Rights (ICCPR) and the second is the International Covenant on Economic, Social and Cultural Rights (ICESCR). Nepal is the state party of 13 international laws including ICCPR and ICESCR. Those countries who have signed the covenants are bound to implement them. In the case of violation or non-compliance with the obligations set by these treaties, there is a provision to appeal in the appropriate organs of the UN system. The state party obliges to present its progress report regarding the developments on human rights situation every 2 or 3 years. At the same time, common people, human rights organizations, the associations of indigenous groups, or affected parties may also send their parallel reports proving the government report true or false or partially true. In such a case the Human Rights Committee may inquire about the truth, or send the report back and ask the government to correct its report, and publish the human rights situation of the country. This is known as treaty based complaints procedure. Therefore, every state must implement and follow the principles set by the international bills of rights. There are non-treaty complaint procedures also. Anyone can complain against the violation of one's rights. In that case the Human Rights Commission can send a fact finding mission to affected people or can ask the government to safeguard the rights of the concerned people. Similarly, there are other international instruments such as conventions, conferences, treaties and agreements on many thematic areas. The International Convention on the Elimination of All Forms of Racial Discrimination (CEARD), the Convention on the Rights of Child, the Convention on the Elimination of All Forms of Discrimination against Women (CEADAW), ILO conferences, the Convention on Biological Diversity (CBD), etc. are binding conventions. There are declarations which are non-binding except the UDHR. The UN declaration on the rights of a person belonging to ethnic or national or linguistic or religious minorities of 1991 is a declaration. But it is the elaboration of Article 27 of ICCPR and ICESCR and therefore it, in many cases, is binding.

In my view, it is important to include these internationally accepted provisions, laws and conventions into our national constitution and legal instruments. Although Nepal is a state party of CEARD, the sources of laws in Nepal are Hindu philosophy, Hindu religion and caste (Varna) system. Therefore the Nepalese laws are not secular. They reflect the caste system and caste prejudices in substance. Similarly, there are regional conventions such as European Convention on Human Rights, the American Convention on Human Rights, the African Charter of Human and People's Rights, the African Declaration on the Rights and Duties of Man, etc. In all these conventions there is a common universal principle: There shall be no discrimination on any ground. Whether these norms have been adopted and accepted while drafting the present constitution is a matter of great importance, and our attention must be focused on these points.

Indigenous women can assess their rights on the basis of CEADAW. We can assess our existing indigenous rights in Nepal in accordance with the UN Declaration on the Rights of Indigenous Peoples (DRIP) in order to safeguard the rights and interests of indigenous peoples of the world. Though the DRIP is not approved, yet, by the General

Assembly, the basis of this is the UDHR, ICCPR, ICESCR, CEADAW, CEARD, CRC and many other international laws. It is under discussion in the Human Rights Commission. Similarly, there is a proposed American Declaration on the Rights of Indigenous Peoples. These draft declarations have been framed on the internationally accepted principles of rights. We can cite these provisions to put forward our demands and wishes.

Om Gurung has raised the issue of the right to self-determination and local self-government. In this connection it is essential to clarify what provisions have been included in the draft declarations and what matters have been raised by NEFEN. The latter has accepted, in principle, the right to self-determination and put forward its desires and demands for self-government of the indigenous peoples in Nepal. The intention of NEFEN's demand is also in conformity with the Articles 3 and 31 of the UN Draft Declaration on the Rights of Indigenous Peoples. Article 3 mentions that indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. Article 31 states that indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions. The real aspiration of the nationalities of Nepal is self-rule and autonomy.

The International Labour Organisation (ILO) conference concerning indigenous and tribal peoples in independent countries-1957, which was amended in 1989, known as ILO convention No. 169, is also a binding convention. Nepal has not signed on this convention. It is the only existing international legal document to safeguard the rights of indigenous peoples. ILO-169 has clarified a number of indigenous rights as right to land, right to natural resources, right to languages and education, right to enjoy culture, right to opportunity in employment including the definition of indigenous peoples in article 1 of the convention. Besides, the UN has made various efforts for setting up the standards for economical, social, cultural, and environmental development such as the Earth Summit-1992 in Rio; the International Conference on Population and Development-1994 in Cairo; the World Summit for Social Development held in 1995 in Copenhagen, etc. Similarly, the World Health Organisation has been giving special attention for the health of indigenous peoples.

The Convention on Biological Diversity (CBD) states in its Article 8 J that the income earned by industrial goods produced by the resources, skills, technology, knowledge, etc. of the indigenous peoples should be shared by them. If a mineral is found in the dwelling place of indigenous peoples' territories, they should have access to and control over the resources. This principle is also applicable to many areas such as medicine. It has been recently known that about 80% of the medicines manufactured and marketed in the world are based on indigenous knowledge and technology. but the profit goes to multinational corporations. CBD has recognised that indigenous peoples will have the right to its return. It is very important to notice who controls the resources and who has access to them. Similarly, there are many processes going on concerning the rights and interests of indigenous peoples in the international community. Asian Development Bank has made the Indigenous Peoples Policy. The World Bank (WB) is also in the process of framing such policy. Now WB has its 'Operational Policy' that can be used

for safeguarding the rights and interests of indigenous peoples. The United Nations Development Programme (UNDP) is also in the process of framing its own indigenous policy. There is no separate body to look at indigenous affairs in the UN so far, though the UN has separate commissions or departments for women, disabled and various other sections of the society.

Recently, the Human Rights Commission has passed a proposal to set up a Permanent Forum for Indigenous Peoples in the UN system and has referred to ECOSOC for the approval. There is no agreement between government delegates and indigenous delegates on the mandates of Permanent Forum. Indigenous peoples are insisting on the right to policy making as well as review and solution of conflicts. But the government representatives want to make it an advisory body and are reluctant to assign the power of policy formation. This debate on the rights of indigenous peoples is important to be known. The UN has two major programmes to be completed during the international decade of the world's indigenous peoples. The first is to get approval of the General Assembly on the draft declaration on the Rights of Indigenous Peoples, and the second is to form this Permanent Forum. Indigenous peoples are following these international processes as well. For indigenous peoples have already established various networks in regional and international level as Asian Indigenous Peoples Pact (AIPP) in Asia and International Alliance of Indigenous – Tribal Peoples of the Tropical Forest (IAITPTF) on the international level. IAITPTF, through its own charter, is committed to the rights of indigenous peoples regarding land and natural resources, language, script, religion, culture, self-determination and self-government”.

Legal and other provisions affecting the rights of indigenous/nationalities' women in Nepal

A special part of the consultation dealt with the identification of the existing legal and other provisions affecting the rights of indigenous/nationalities' women in Nepal. In her opening address Yasokanti Bhattachan summarized the situation: "We females constitute more than half of the total population of Nepal. In terms of percentage, it amounts to 51.31%, in that also among our Janajati community, out of the total, we have 70% of the total women population. The indigenous women population is moreover doubly exploited and discriminated against. We are suffering in two different ways because we belong to the women class and, secondly, because we belong to a Janajati community. Women have the maximum burden to shoulder, as producer of food working in the fields, as procreator of species, and because of the social roles. Each day, a woman works for 14 to 18 hours and the role we play is insignificant in the mainstream line of action of the national movement. So, Janajati women's role is insignificant. The higher authority is also not sensitive towards their issues and problems. This is why we are trying to seek our rights by ourselves and it will continue to be so in the future, too. Due to the influence of the Hindu culture we have to face the consequences of gender discrimination."

Longer statements were presented by advocate Sapana Malla and by Stella Tamang. Sapana Malla said: "The structure of society itself shows how we are discriminated. It is taken for granted that women will themselves have to look after their own problems. Our social role is limited to the homes, the household works, especially the physical labour which has no countability, where education has no place at all. Women working outside their homes have to bear equal responsibilities at home and outside; in this responsibility, there is no equal participation of men and women. The case is even more

pathetic for Dalit women (untouchables) who not only have to face these problems but also have to experience social discrimination and ostracism as practised upon these communities due to the caste social structure of the society. Whether these women may go to fetch water or go to temples of worship. Even the law gives them second class status. Actually the constitution of the country does not differentiate its citizens on the basis of their sex and castes. Women are backward communities in relation to men including the women of the ethnic/indigenous communities. Our constitution has very clearly stated that special laws can be made in order to promote women's status and there has been our special effort to improve our lot. It is not only the responsibility of the constitution but also that of the state's policy making body as to how to improve and lead the women of our society and also the backward ethnic/indigenous communities to improve their conditions. If we look into the present policy, there exists law and policy management body, to help the cause of backward communities and the women of the society. The Local Government Act has reserved seats for women, whether that is in the VDC or the ward. It has stated that a seat each will be reserved for women and for the backward communities. Due to this, now almost 40,000 women have reached local government bodies, which is the positive aspect of the Local Government Act.

It needs to be seen how effective the implementation of the act has been in relation to its impact upon the ethnic/indigenous women because it is obvious that women representatives from this section of the society is minimum. Therefore, the main crux of this problem is related to the declaration of Nepal as a Hindu Kingdom. The Supreme Court in order to give continuity to this Hindu concept has defined that Nepal being a Hindu nation, because of its social tradition, its social value, by remaining within the fold of the Hindu religious tradition, anything that is done for its continuity, shall not be accepted as discriminatory. This kind of the definition by our democratic constitution itself has discriminated us once again. In national and international levels the expressed policy has been to improve women's status in society, to abolish discriminatory policies and laws practised upon women and help the backward communities to come forward. One great example of this is that Nepal has accepted the covenant that promises to rid all discriminatory actions against women and according to the laws of Nepal. After having assented to apply the international covenant into Nepalese context, it will now have its validity as the national law in Nepal. But again that has remained as national commitment only. It has not been implemented till now. After one year, the state assented to the covenant and after a year of being approved in the UNO's Women Relation Committee, a government report has to be sent which must be the detailed study of the condition of women in Nepal after the implementation of the covenant into Nepalese context, what changes have come and what positive results are seen in women's conditions. In June 1999, the government sent the report for the first time. That UN committee raised questions about the condition of the ethnic, indigenous and Dalit women of our society. They were very anxious that even today the traditional behaviour based on caste system was still existent, and it requested that such condition should not be in the society. Despite of such pressure from the international body even then the laws of the state continue to discriminate women and there are several such examples. For instance there is discrimination in property rights or god sons/adoption issues. Violence against women is on the rise and no real efforts and commitments to control that have been made. In this context, the Muluki Aim Amendment Bill has been passed in the parliament. It is expected that in the coming Winter Session it will be seriously discussed in the House. This bill has come in the form of the 11th Muluki Ain Amendment

Bill. It specially reviews the discriminatory issues related to the Property Act. It also attempts to give some limited rights to abortion. Like with the consent of the husband, women can abort till the 12th week of pregnancy, or if pregnancy is the result of blood relation or on account of forced rape then abortion can be done till 18 weeks of conception, or if the life of the mother is in danger or there is proof of a deformed child being born then there is proposal to allow abortion.

In the issue of property rights, the present proposed bill accepts that the daughter also has share in the parental property. The daughter has this right as soon as she is born. But after marriage there is provision that she needs to return the remaining of her share that remains after making use of it at her parental home. The other good part of the bill is that at the time the woman asks for divorce, the court demands the list or the description of confiscated woman's goods, returns one part of her dowry to her and then grants her the divorce. In case of widows the age limit of 30 has been removed and the widow can get her share of the husband's property whenever she wants it. So the bill is in women's favour. Before, the marriageable ages of women and man were 16 respectively 18 and now it is raised to 18 and 21. Bills have been made which give severe punishment to rapists. But we are not entirely satisfied with these laws. What we fear is that these well-meaning laws may or may not pass or, on the other hand, they may again discriminate women's cause, like the position of women before marriage and after marriage. There seem to be prevailing concepts that women are entitled to their rights only after getting married. We talk of women empowerment from the time of birth till the time of death. But the laws think of women empowerment in terms of what after marriage they are entitled to. That is why we are stressing on our demand for women empowerment. We don't want the empowerment which is stopped in the middle, and through marriage only this right can be acquired. But the present bill has not been able to include this concept. Next, we see the violence on women both within homes and outside in the public. To some extent the state may be able to control violence inflicted on women outside homes, but related to violence committed within homes, or social violence or violence committed because of the ethnic, or indigenous or Dalit communities, the state is not able to formulate clear-cut laws."

Stella Tamang brought the Beijing Declaration into discussion when she said, "The Beijing Declaration of the ethnic/indigenous people is not a government official declaration. Moreover, it was the collective declaration made by women participant members of different countries representing various non-government agencies from around the world. In that conference, there were 110 women participants from 26 nations. At the beginning of the Declaration is written 'The Earth is our Mother. We get life from her, and the right to live. It is our duty to take care of her, and in her care we are also taking care of her. Women are the human expressions/personifications of the Mother Earth.' It says that the 'the Declaration is based on the acceptance of the UNO's declaration of this decade as the Decade of the World's Ethnic/Indigenous Peoples and the outcome of the discussions on rights related to ethnic/indigenous peoples, the covenant that abolishes all discriminatory actions against women, the Nairobi Strategies for Women's Development, Agenda 21, and the Rio Proclamation on Environment and Development, and Cairo and Copenhagen Social Summit Conferences. We are in agreement with the major parts of the ILO-169 treaty. But we disagree because the conference didn't speak on the state's army mobilization and encroachment on the lands of the ethnic/indigenous peoples.' The Declaration clearly defines its objectives for struggle, and mentions that 'We the ethnic/indigenous women of the world are fighting

for the freedom of our land unjustly taken away by powerful and self-interested nations, for the independence and defence of nations, and for ensuring our right of self-determination.' Similarly those industrialized nations and multi-national companies, like the World Bank, World Monetary Fund, and World Business Federation have given shape to the 'New Economic Order' in the name of liberalization and colonization. In the end, what I want to say in totality is that the Forum for the Draft Declaration in Beijing failed in criticizing the 'New Economic Order', the reasons of poverty, the powerful nations, their selfish interests which made us their colonies, and their desperate efforts to impose their culture, their model of development in the name of uniformity and in the wake of recolonization spirit. They have not identified problem areas and not dared to speak against the army activities on the lands of the ethnic/ indigenous people.

The Beijing Ethnic/Indigenous Women's Forum put forward the following proposals and demands:

1. Give rights and recognition to the women's right of self-determination.
2. Let us have our rights over our land and areas and control over its development, and respect and recognition for our rights of education and health.
3. Let violence and disruption of human rights against our ethnic/indigenous women be stopped.
4. Let us have the right to control our bio-diversity in our lands, and let us get due recognition for our intellectual and cultural capabilities.
5. Let participation of women of ethnic/indigenous communities be encouraged into political areas, access and reach to resources be made possible and capacity enhancement programs be ensured for them.

Recommendations for constitutional and legal amendments

Finally, the national consultation passed a long list of recommendations for constitutional and legal amendments. It declared that the constitution is not a universal document. It must be amended in accordance with time, need and will of the people. 27 proposals for constitutional amendments were listed and seven concrete strategies were decided.

Another list of seven amendment proposals concerned the Muluki Ain (civil code), again accompanied by different ways of strategies. Further 37 amendment proposals concerned 30 other laws. Nine proposals were made concerning the indigenous women issues. Besides, the proposals of the regional advisory seminars were included, and a number of recommendations for communication were decided.