



## Nepal's Interim Constitution: Inspiring Versus Cynical Experience

The 21-hour meeting of the top leaders of the Seven Party Alliance and the CPN-Maoist (SPAM) on December 15, 2006 culminated in the signing of the draft of the Interim Constitution (IC) 2006 at the Prime Minister's residence in Baluwatar, Kathmandu. Although the task was accomplished on *Poush 1 of Bikram Sambat 2063* (December 16, 2006), the date of previous day (December 15) was retained as *Poush 1* was the day that the late King Mahendra led a coup against the first multi-party democracy and founded the party-less Panchayat (autocratic) regime in 1962. Prime Minister (PM) and Nepali Congress (NC) President Girija Pd. Koirala, Supremo of the Communist Party of Nepal-Maoist (CPN-Maoist) Prachanda, CPN (UML) General Secretary Madhav Kumar Nepal and other top leaders put their signatures on the Interim Statute at 8 am.

The people, including the Maoists, wish to proclaim the IC soon to pave the way for timely elections to the CA. The CPN (Maoist) issued a 12-day ultimatum to the government to proclaim the 167-article of Interim Statute, form Interim Parliament (IP), and announce the date for Constituent Assembly (CA) elections before December 30, 2006. The Interim Statute is to be endorsed by the Cabinet or Government of Nepal (GoN) and approved by the House of Representatives. Some of the major components of the interim statute are listed below:

Issue	Interim Constitution 2006 (December 15, 2006)
<b>Monarchy</b>	<ul style="list-style-type: none"> <li>▪ No state power shall rest with the king.</li> <li>▪ All the governance functions previously vested with the King shall be transferred to the Prime Minister (PM).</li> <li>▪ The CA shall decide the fate of monarchy by a simple majority at its first meeting.</li> <li>▪ The property of Late King Birendra and his family shall be brought under the GoN and a trust formed for the benefit of the nation.</li> <li>▪ All the estates and properties (e.g. Palaces, forests and national parks, historical and archeological heritage sites, etc.) belonging to king shall be nationalized.</li> <li>▪ The State awards, honors and medals shall be pinned by the PM, but any citizen shall not receive any such awards from any foreign country unless prior approval of the GoN.</li> </ul>
<b>Interim Parliament</b>	<ul style="list-style-type: none"> <li>▪ The IP shall be a unicameral legislative body with 330 members; 209 members from the incumbent Parliament, 73 Maoists, and 48 selected consensually from the United Left Front, sister organizations of the political parties, disadvantaged castes, those from backward area, Indigenous nationalities and women.</li> <li>▪ Individuals avowedly against the Popular Movement II shall not participate in the IP.</li> <li>▪ It shall function on the basis of political consensus.</li> <li>▪ The IP shall be disbanded upon the first meeting of the CA.</li> <li>▪ The concerned party shall fill position vacancies.</li> <li>▪ The Chairperson and Deputy shall be elected from among IP members, neither shall represent a single party only; the eldest member shall Chair the IP in the absence of the Chairperson and Deputy.</li> <li>▪ Special Privileges: (i) Full freedom of expression to members during house sessions; (ii) no arrests, detention or court proceedings shall be held for any idea expressed or vote cast by members; (iii) full rights to regulate all internal affairs of the IP, (iv) decisions of the house shall be supreme and not subject to challenge.</li> <li>▪ Publication of any written document, vote, or action in the IP by any member shall not actionable in any court.</li> <li>▪ Upon dissolution of the IP, after proclamation of CA, the latter shall be invested with all the authority assigned to the former.</li> <li>▪ The IP shall enjoy the power to impeach Judges on issues of execution of judiciary functions.</li> </ul>
<b>Interim Executive</b>	<ul style="list-style-type: none"> <li>▪ All executive powers shall be vested in the Council of Ministers (CoM).</li> <li>▪ All executive functions shall be carried out in the name of GoN.</li> <li>▪ Responsibility for the general direction, control and execution of governance shall be according to law.</li> <li>▪ The PM and other Ministers shall appointed by political consensus; the PM shall Chair the CoM.</li> <li>▪ The structure of CoM, division of portfolio and procedure shall be done through political consensus.</li> <li>▪ The ministers shall be appointed upon recommendation of the concerned party. It is not necessary for them to be an MP (Member of Parliament).</li> <li>▪ The CoM shall be collectively responsible to the IP; but the Ministers shall be responsible to the PM and IP for ministerial affairs.</li> <li>▪ The PM shall take his or her oath with IP Chair; the other Ministers with the PM.</li> <li>▪ The PM shall present the GoN's annual program and policies to the House session.</li> </ul>

<b>Interim Judiciary</b>	<ul style="list-style-type: none"> <li>▪ There shall be three types of courts: Supreme, Appellate and District.</li> <li>▪ All the incumbent Courts shall be recognized as formed by the IC upon its proclamation. Cases filed under the jurisdiction of the former shall be continued.</li> <li>▪ The Chief Justice of the Supreme Court shall be appointed by the PM upon the recommendation of the Constitutional Council. The Chief Justice upon the recommendation of the Judicial Council shall appoint Judges.</li> <li>▪ A Judicial Council shall be formed to appoint, transfer, discipline, fire and administer the courts consisting of (i) Chief Justice as chair, and (ii) Minister of Law, and (iii) Senior advocate on recommendation of BAR, (iv) Appointed by PM and (v) Senior most judge of the Supreme Court.</li> <li>▪ The CoM shall have the power to stall, change, reduce or revoke any verdict made by any court, quasi-judiciary, military court, special court, or administrative body.</li> <li>▪ Judges refusing to take the oath as per the IC shall be terminated from office.</li> </ul>
<b>Constitutional Council</b>	<ul style="list-style-type: none"> <li>▪ A Constitutional Council shall be established to appoint the officials of the constitutional bodies. The Council shall consist of the PM as Chairperson, the Chief Justice, Speaker, and three ministers appointed by PM. The Minister of Law and Justice shall participate in case the Chief Justice position is vacant.</li> </ul>
<b>Security</b>	<ul style="list-style-type: none"> <li>▪ The Nepali Army (NA) shall have an appropriate number of troops. It shall be structured democratically and its personnel shall be trained in human rights values as a means of building national character.</li> <li>▪ The Chief of Staff of the NA shall be appointed by the CoM.</li> <li>▪ The CoM shall establish, control, use, and mobilize the NA.</li> <li>▪ A comprehensive action plan for the democratization of the NA shall be implemented.</li> <li>▪ A National Security Council (NSC) under the chairmanship of the PM with members including Ministers of Defense, Home and two designated by the PM shall be formed. On the recommendation of the NSC, the CoM shall control, use and mobilize the army. If the PM and Minister of Defense are the same person, the next senior-most member of the NSC shall be named to the Council. The Secretary of Defense shall perform the responsibilities of the NSC secretary. The decision of the CoM to mobilize the NA must be tabled and endorsed within 30 days by a Special Committee of the Legislature.</li> <li>▪ The CoM shall form a special committee to manage, integrate and rehabilitate the Maoist Army (MA) combatants.</li> <li>▪ The management and monitoring of the MA combatants and their weapons shall be as per the Comprehensive Peace Accord on November 21, 2006 and the Arms Management Agreement on November 28, 2006 between the State and CPN (Maoist).</li> </ul>
<b>Constituent Assembly</b>	<ul style="list-style-type: none"> <li>▪ A CA shall be formed under the IC to formulate a new constitution by the people themselves</li> <li>▪ The CA shall consist of 425 members; 205 through a First Past the Post (Majority Vote), 204 through the inclusive proportional election system and 16 persons of national importance nominated by consensus of the CoM</li> <li>▪ The political parties shall prepare a list for proportional representation including women, dalits, those from disadvantaged caste/indigenous ethnic groups, backward regions, Madhesi, etc. as per provisions of law.</li> <li>▪ A secret ballot shall be followed for CA representative elections.</li> <li>▪ All persons attaining 18 years of age by December 15, 2006 shall be allowed to cast a vote.</li> <li>▪ The tenure of the CA shall be for two years from its first meeting, unless dissolved by itself. Six months shall be added in the case a state of emergency is declared.</li> <li>▪ The Constitutional Court shall look into matters relating to the ineligibility of any CA member.</li> <li>▪ The members of CA and its committees shall take the oath according to law</li> <li>▪ The Chair shall call the first meeting of the CA on the 21<sup>st</sup> day of the publication of the results by the Election Commission.</li> <li>▪ The Chair shall call the CA into session within 15 days of a written request by one-fourth of its members when the House is not in session.</li> <li>▪ Bill of the Constitution: <ul style="list-style-type: none"> <li>○ The preamble and each article of the new constitution shall be passed by vote.</li> <li>○ Voting shall be based on consensus; the quorum shall be the presence of two-thirds of the representatives.</li> <li>○ A period for consultations between the leaders of the concerned parties extending for 15 days from above situation shall be established in the event that consensus cannot be reached in the House.</li> </ul> </li> <li>▪ The CA shall elect a Chairperson and Deputy Chairperson from its membership but they must be from different parties. The eldest member shall chair the CA until a neutral Chairperson is elected.</li> <li>▪ A quorum of the CA shall be one-fourth of its members.</li> <li>▪ Majority vote shall decide any motion in the CA. The Chairperson shall only cast a decisive vote in case of tie.</li> <li>▪ Special Privileges: (i) full freedom of expression to members during CA sessions; (ii) no arrests, detention and court proceedings shall be held against any CA result of his or her position on any motion; (iii) full rights to regulate all the internal affairs of the CA, (iv) no comments raised or published by any member of the CA shall be sanctioned, (v) the decisions of House shall be supreme and cannot be challenged in any court;</li> <li>▪ Publication of any written document, vote, or action in the CA by any of its members shall not be</li> </ul>

	<p>subject to court action.</p> <ul style="list-style-type: none"> <li>▪ Information regarding the arrest of any member on criminal charges shall be provided to the Chairperson.</li> <li>▪ The Chairperson shall not imprison extend imprisonment beyond three months nor collect a fine in excess of 10, 000 NRs from any person challenging the CA; but the CA could grant amnesty, stall, revoke or minimize such punishment.</li> <li>▪ The CA shall cease to exist on the day it proclaims the new constitution. However, the CA shall function as the legislature until the general elections are held and for the Chairperson and Deputy Chairperson who will function as Speaker and Deputy, respectively.</li> <li>▪ Issues of national importance, except those prescribed by the IC, shall be decided by referendum requiring a two-thirds majority.</li> </ul>
<b>Local Autonomous Governance</b>	<p>The State will be restructured to be inclusively democratic eliminating discrimination based on class, ethnicity, linguistic, gender, culture, religion and region.</p> <ul style="list-style-type: none"> <li>▪ A High Level Commission shall be formed to accomplish the above goal. The court shall be formed by the GoN.</li> <li>▪ The CA shall decide the restructure of the state.</li> <li>▪ A body shall be formed to maximize people's participation in availing themselves of services offered by a decentralized local government. The fair distribution of revenue shall be made to these local bodies through the GoN and a special body established for this purpose.</li> <li>▪ Local governing bodies shall be formed according to the consensus reached in the Political Agreement of November 8, 2006.</li> <li>▪ Special attention shall be devoted to prompting the balanced and equal development of socio-economically disadvantaged classes and communities.</li> </ul>
<b>Commissions</b>	<ul style="list-style-type: none"> <li>▪ Commissions shall be formed to protect and promote the rights women, dalits, indigenous nationalities, Madhesi, disabled, labor, farmers etc.</li> </ul>
<b>Human Rights</b>	<ul style="list-style-type: none"> <li>▪ All persons have the right to a dignified life.</li> <li>▪ There shall be no capital punishment.</li> <li>▪ No individual liberty shall be violated except as prescribed by law.</li> <li>▪ All citizens shall enjoy the following rights to liberty: freedom of opinion and expression; peaceful assembly without arms; freedom to form political parties and organizations; freedom of mobility and domicile within the country; freedom to choose and conduct any profession and business; freedom to publish and disseminate information and freedom of the press including electronic media except when such activities violate national sovereignty and integrity, unity of castes, ethnicities and communities, revolt against the State, abuse of persons; contempt of court, public courtesy and immoral actions.</li> <li>▪ Right to environment and health: All persons shall enjoy the right to a pollution free environment; all citizens shall enjoy free basic health services.</li> <li>▪ Right to education and culture: All citizens shall enjoy the right to education in her or his mother tongue; secondary education shall be free to all; all communities living in Nepal shall have right to protect and promote their language, script, culture, civilization and heritage.</li> <li>▪ Right to employment and social security: All citizens have the right to employment; social security shall be provided to women, labor, senior citizens, and those who are disabled, destitute, and helpless; and the right of food to all.</li> <li>▪ Right to property: All citizens shall be entitled to earn, consume and sell and buy any property; the state shall not confiscate or acquire private property except in the public interest; The state shall compensate the owner of property acquired or confiscated for scientific land reform and/or public welfare.</li> <li>▪ Women's Rights: There shall be no discrimination against any woman; all women shall enjoy reproductive health rights; any physical and mental violence against women shall be punishable by law; there shall be equal rights to inheritance of property.</li> <li>▪ Right to social justice: The socio-economically and educationally marginalized women, dalits, indigenous nationalities, Madhesi, disadvantaged classes, poor peasants and labor shall participate in the state restructuration based on the theory of proportional inclusion.</li> <li>▪ Children's rights: All children shall have the right to identity; all children shall have the right to basic healthcare and social security, all children shall enjoy freedom from exploitation; the state shall provide special privileges to the helpless, orphans, the vulnerable and street children a secure future; and any minor shall not be employed in any professions including armed conflict.</li> <li>▪ Right to religion: All individuals shall enjoy the right to practice and protect their traditional socio-cultural religion in a dignified manner; all shall be entitled to operate religious places and trusts.</li> <li>▪ Judicial rights: No one shall be detained without notice of cause and the detainee shall have the right to advise an advocate upon arrest; the consultations with the advocate shall be confidential.</li> <li>▪ House arrest: No one shall be kept in house arrest except when violating state sovereignty, integrity and public peace and management. All shall be compensated if their rights have been violated.</li> <li>▪ Right against torture: No torture, cruel, degrading and inhuman treatment or punishment shall be meted to any person and compensation shall be issued if upon investigation such cases are identified.</li> <li>▪ Right to information: All citizens are entitled to obtain information relating to personal or public welfare.</li> <li>▪ Right to secrecy: All persons shall have the inviolate rights to physical person, shelter, property,</li> </ul>

	<p>written document, data, communication, character, etc.</p> <ul style="list-style-type: none"> <li>▪ Rights against exploitation: All persons shall have the right against exploitation; no one shall be subject to exploitation in the name of tradition; no one shall be trafficked and bonded in labor and no one shall be forced to work without his/her consent.</li> <li>▪ Right to labor: Each worker and employee shall enjoy the right to appropriate labor practice; all employees are entitled to enter into trade unions and to bargain collectively to protect his/her interest.</li> <li>▪ Right against exile: No one shall be exiled.</li> <li>▪ Right to constitutional remedy: All citizens shall enjoy the rights to constitutional remedy.</li> </ul>
<b>Directive Principles</b>	<ul style="list-style-type: none"> <li>▪ CA elections shall be held by then end of June 2007.</li> <li>▪ Ensure forward-looking political, economic and social transformation.</li> <li>▪ Full compliance with basic human rights, multi-party competitive democratic system, people's sovereignty and supremacy, constitutional balance and control, rule of law, social justice and equality; independent judiciary, periodic elections, monitoring of civil society, total press freedom, right to information; transparency and accountability in activities of political parties, people's participation, full compliance to impartial, competent and fair administration; adherence of political system to end corruption and impunity for good governance.</li> <li>▪ Restructuration of the state in terms of inclusive democratic and forward-looking strategies by eliminating discrimination based on class, ethnicity, linguistic, gender, culture, religion and region by ending the unitary and centralized structure of the state.</li> <li>▪ End all forms of feudalism for socio-economic transform through minimum common program.</li> <li>▪ Implement programs and policies to end feudal land ownership and implement scientific land reform.</li> <li>▪ Protect and promote national industries.</li> <li>▪ Establish policies on rights of all citizens for education, health, shelter, employment and food sovereignty.</li> <li>▪ Policy of socio-economic security for the socio-economic marginalized classes such as squatters, <i>kamaiya</i>, <i>haliya</i>, <i>haruwa</i>, <i>charuwa</i> (bonded labors).</li> <li>▪ Strict policy to try and punish those in public authority who have amassed property through misuse of power and corruption.</li> <li>▪ A common concept for the socio-economic transformation of the country to ensure justice and develop the country economically.</li> <li>▪ Ensure professional rights to labor, increase investment in industry trade, commerce, and export promotion for creating employment opportunities.</li> <li>▪ Effective implementation of all the international treaties to which the state is a party.</li> <li>▪ End all discriminatory laws.</li> <li>▪ Utilization of water and natural resources for national benefit.</li> <li>▪ Appropriate relief, respect and reestablishment to the families of conflict-affected victims.</li> <li>▪ Form an investigation commission to provide relief to families of those who disappeared during the conflict.</li> <li>▪ A special program to rehabilitate the conflict-induced displaced people, to relieve the public and private property and to renovate the damaged infrastructure.</li> <li>▪ A High level Truth and Reconciliation Commission to investigate perpetrators of human rights violations and crimes against humanity.</li> </ul>

## Conclusion

Respecting the popular mandate of the Nepalis who have advocated democracy, peace and progress through frequent historical struggles including the people's movement...the preamble endorses the concept of multiparty competitive democracy, freedom for citizens, fundamental human rights, adult franchise, elections, freedom of the press, an independent judiciary and the rule of law. Putting sovereignty and state power in the hands of the Nepali people in a manner similar to that outlined in the Constitution of the United States of America, the preamble states, "We, the people, who exercise sovereignty and executive power, declare the interim Constitution, 2006...." There is no mention of popular movement II.

Nepal's political transition has finally settled down as SPAM struck a deal over the interim statute. Instead of ensuring a ceremonial role for the present monarch, the Interim statute stripped Gyanendra of the 3Ps of politics, power and privilege by making him a civilian, or cosmetic, king. The CA members shall decide the fate of monarchy by simple majority vote at its first meeting as articulated in the Peace Accord of November 21, 2006. The Statute also agreed to nationalize the properties of the late King Birendra and his family and to form a trust, although the private properties of Gyanendra will remain his. Due to the prevalence of the culture of impunity, the king and his family members have amassed property by illegal means during the 30-year of Panchayat regime and thereafter, as had *Kangalraja* (king of the paupers) until the reign of Tribhuvan. In preliminary investigations billions of US dollars have been identified in the name and family of Gyanendra invested in different industries and lands in Nepal; no one has any idea of the extent of his holdings in foreign lands (cf Situation Update VIII: September 15, 2006).

In a parallel vein, none of the existing political parties have published their incomes and expenditures nor have they conducted any social audit. The recent nomination of 14 ambassadors to different countries is another example of corruption as each individual nominated agreed to pay more than 50% of his/her salary and benefits to the respective parties or leaders who ensured his nomination. Otherwise, the GoN would have given high priority to

appoint Vice Chancellors, Rectors, etc. to the Universities rather than to concern themselves with the appointment of ambassadors. There is ongoing concern that the forthcoming CA members will be influenced by money, muscle and mafia to protect the ceremonial role of the monarchy at their first meeting. Even inside the NC, PM Koirala who is under considerable pressure to ensure a republic is still trying to preserve the monarchy. After returning to Nepal from New Delhi in February 1951, the late king Tribhuvan said, "We appointed our very dear Mohan Samsher Jung Bahadur Rana as our Prime Minister", but he could not protect ranaism. Similarly, Gyanendra's fate may parallel that of Mohan Samsher despite the efforts of Koirala and some international forces. Koirala wants to protect the king by preventing communists from assuming state power. Voicing the position of the NC cadres in the countryside, Central NC member Narahari Achary said, "Whatever you were discussing in Kathmandu, we did not like. This is not a matter of discussion. Should the monarchy be needed, Kathmandu can keep him, but his influence should not come with us."

The interim statute entrusts the PM with the responsibility for executing both the duties of head of state and the government similar to that of President of the United States. The PM takes official oath in the unicameral House, and he/she appoints the members of the Council of Ministers as per the political consensus, but there is no provision for the Prime Minister's appointment or that of his/her replacement in the event of a vote of no confidence. The PM appoints Chief Justices of the Supreme Court, Ambassadors, Chief Commissioner of the National Human Rights Commission (NHRC), Election Commission, Investigation for the Commission of Abuse Authority, etc. and receives credentials from the ambassadors. The PM also pins the State awards, honors and medals, but any individual is unable to receive any such awards from any foreign country unless prior approval of the GoN. The PM's authority in Nepal is unique as he is now even more powerful than the PM Jung Bahadur Rana (160-year ago), the most authoritarian prime minister in the history of Nepal. This reality may destroy the theory of power separation and rule of law prescribed under the Constitutional Law. Gyanendra introduced his absolute regime to loosen constitutional impediments in February 2004. The same King's special privilege has now transferred to the PM.

The judiciary is more influenced under the third interim statute 2006 than previously (Government of Nepal Act 1948 and Interim Constitution 1951). In terms of power separation, the judiciary seems very weak as maximum rights have been afforded to the executive and then legislative branches of government. The six-member Constitutional Council headed by PM appoints the Chief Justice of the Supreme Court and Chief Justice appoints the Judges on the recommendation of the five-member Judicial Council. Moreover, the PM has an authority of recommendation, appointment and acceptance of resignation of the Chief Justice. As all political figures such as speaker and four ministers recommend the position of Chief Justice, an independent and competent judiciary may prove impossible to attain. Instead, the word "competent" has been replaced in the interim Statute, contradicting article 14.1 of the ICCPR. When the Supreme Court once defeated his case, he commented, "The Court shall transfer into the Palace." He will again be state leader (PM) even in the future. Moreover, the Supreme Court shall submit the annual report to the PM and the PM will in turn present it to the parliament. The provision for the impeachment of judges of appellate and districts courts allows for their removal on relatively insubstantial grounds such as "physical and mental incompetence for the time being". Under these circumstances, how can the judiciary perform its task as an independent and autonomous body? Moreover, the Council of Ministers shall have right to revoke, stall, change and reduce any verdict made by any court.

In the past, too many times the ruling party has politicized state mechanisms including those of the judiciary and legislature. For instance, Chief Justice, Biswonath Upadhyaya accepted the dissolution of parliament recommended PM, Girija Prasad Koirala of NC in July 10, 1994 and disapproved the appointment of the PM, Manmohan Adhikari of CPN (UML) in September 1995. The nomination of Upadhyaya as the Chief for the NHRC by the PM Koirala is a reward for him. The Nepal Federation of Indigenous Nationalities (NEFIN) who comprises 40% of the total population opposed the nomination of Upadhyaya condemning his stand against the rights of the indigenous communities.

The Statute is ambitious in terms of fundamental rights. There are 23 articles as compared to 13 articles in the Constitution of 1990. It has guaranteed rights to food, free education and basic health services as well as rights to employment and social security. The Directive Principles of the state have ensured policies of rights to all citizens on education, health, shelter, employment and food sovereignty. Can Nepal guarantee these rights similar to the citizens of Scandinavian countries if someone files a case in the court and court issues a verdict to the state to implement them? Is the state infrastructure adequate to guarantee quality educations, health services and employment opportunities as they are under the control of limited elites, new baron and mafia? The ridiculous thing is that none of the individual defames the parliament and parliamentarians or challenges in any court. The drafters of the Constitution put forward, "any perpetrator including king Gyanendra shall not escape if they were responsible for human rights violation and crime against humanity" has been replaced in the Statute fearing ramification themselves.

Mixed type of paper ballot system for the assembly shall be used for 425 CA members of which 205 to be elected based by first past the post and 204 through inclusive proportional election system and 16 members by the CoM (for more see Situation Update XII: Election Theory for Constituent Assembly in Nepal: November 2, 2006). One-third seats in the 204 seats of the Constituent assembly will be reserved for women. None of the individual challenges the CA which restricts, "The Chairperson shall aware, instruct and imprison not extending three months and fine a maximum of NRs.10, 000 and collect the sum as public due if he/she fails to pay to the person challenging the CA." Even though, Nepal Sadbhavana Party put forward its note of dissent opposing with the issue of restricting the 205 constituencies based on population. Rajendra Mahato said, "Present constituency delineation has not done justice to the Terai (Madhise) people." On December 25, 2006, Nepal Sadbhawana Party (A) also announced the *Madesh Banda* (flat-land strike) in favor of federal democracy, demarcation of constituencies as per population, etc. crippled the life in tarai region. The Nepalis who are leaving on the abroad had played important role to oust the absolute

Gyanendra's regime in the movement II, but there are deprive the right to vote in the CA election. It is assumed that 5 millions Nepalis are living in India alone and 1.5 millions in the third world countries.

Both the local autonomous government and directive principles of the state policies place greater emphasis on restructuring the state through inclusive democratic strategies based on class, ethnicity, linguistic, gender, culture, religion and region, ending the unitary and centralized structure of the state. However, the Statute does not mention federalizing the structure of government or national and regional autonomy and the right to self-determination. The NEFIN who put forward the demand for a federal democratic republic with ethnic autonomy had protested on the streets against such decisions. Forming the Indigenous Rights Struggle Committee, they burnt copies of the interim statute and organized a half-an-hour *Chakkajam* (stop vehicle), Maitighar in Kathmandu on December 25, 2006. The NEFIN is not happy as the IC named the cow as the national animal as many indigenous nationalities eat the cow's meat.

The 8-point Political Agreement of June 16, 2006 between the SPAM that called for the IC within two weeks has yet to be implemented. The Statute shall be enforced only after the management of arms and armies begins. Arms management issue include cantoning the MA, verifying their weapons, locking up weapons in white containers and installing electric devices "cameras" by the UN team. A similar number of arms from the NA shall also be locked up and the armies to be confined on November 28, 2006. A six-member Security Council has to be formed to mobilize the NA. There is again a question of compliance of understandings, agreements and accords, as the mainstream political parties lack internal democratic exercises and human rights practices. The zeal of the second-generation leaders is decreasing, as the feudal-minded senior leaders will not vacate their positions until their deaths.

The SPAM in name of mutual consensus has replaced most of the prominent issues prepared by the drafters of the Constitution. Repetition of the same issues in the preamble, fundamental rights, CA and state policies along with incorporation of all catch-words in it made the statute voluminous but proves it lacks of professionals. Even though there is no dearth of constitutional experts in Nepal, SPAM uses *aphomanchhe* (near and dear ones). As a result, the statute appears to be a political document rather than country's prominent interim law. Moreover, there shall be no role for individuals and stalwarts of civil society who are non-aligned with political parties, as the SPAM has divided IP and other state facilities likely to their own properties. The Interim Statute supports neither the presidential system nor parliamentary system. The Rastriya Prajantra Party (RPP) who had received more than 10% vote in the last general election in 1999 has no role in the Constitution-making process, for example.

As soon as the UN or ex-British/Indian soldiers (experts) start managing arms and armies on the ground, 73-Maoist representatives under the leadership of Krishna Bahadur Mahara, Coordinator, the CPN (Maoist) Talks Team will join in the IP and five of them will be ministers in the Interim Government (IG). The unicameral House will officially endorse the draft interim statute and administer the conduct of the IG and CA elections by mid-2007. Thus, the former insurgents with identical Marxist-Leninist-Maoist politico-ideology who protracted the armed struggle, like every other constitutional party, will be an integral part of a constitution-making process through competitive politics. This represents a potentially significant lesson for ultra-leftist forces in the world in general and in India and her state in particular. Both the Central and Concerned State Governments along with Indian Maoists should learn from the experience of her northern-neighbor, Nepal and accept the non-violence philosophy of Mahatma Gandhi, "Live as if you were to die tomorrow, learn as if you were to live forever."

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