THE
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The Carter Center's Observations on Identity-Based Political Activity and Mobilizations in Nepal

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EXECUTIVE SUMMARY

Since the restoration of multi-party democracy in 1990, identity politics has played an important role in Nepal's national and local level political dialogue. Yet the term "identity politics" has proven difficult to define or explain, and has been vigorously debated by academics, commentators, political leaders, civil society, and Nepali citizens alike. It is informed by multiple nuances including caste, ethnicity, gender, religion, regional affiliations, historiography, and political and social class. Decades of identity-based movements focused on realms beyond politics – such as culture, linguistic rights, and education – have also shaped political identity in Nepal. Additionally, Nepal's history of exclusionary practices and a highly centralized state is widely perceived as one of the main factors that fueled the decade-long armed conflict. Consequently, inclusion of historically marginalized communities was a key feature in both the Comprehensive Peace Agreement (CPA) signed in 2006, and the Interim Constitution of 2007.

However, while identity politics has been, and remains, one of the most important political issues of the day, it is also one of the most contentious and misunderstood. This report intends to explore one aspect of this contested area of Nepali politics: namely, recent identity-based political mobilizations, particularly movements focused on federalism, and those which flared around the dissolution of the Constituent Assembly in April/May 2012. Given the nature of the protests which occurred at the time, and that the sensitive issue of federalism is yet to be resolved adequately at the national level, a better understanding of identity-based mobilizations, the actors involved, and their demands is of urgent concern before the constitution drafting process resumes in Nepal.

The Carter Center's observations in this report focus on the role that identity-based actors have played in recent debates about federalism at the local level, the perceptions of these activities amongst Nepali citizens, and their impact on communal relations. The findings are based on qualitative local level data gathered by Carter Center observers between September 2011 and December 2012; they help to explore factors that shaped recent mobilizations, areas where tensions ran high, and examples of positive steps taken to mediate potential conflict.

The Carter Center has been observing the peace process and constitution drafting process in Nepal since June 2009, with small teams of Nepali and international observers deployed throughout the country. The Center recognizes the sensitivities around identity politics, particularly at present, and the wide diversity of views across Nepal. The Carter Center does not have a view on the controversial terms used in this debate or raised in the report, nor does it take a position on which community fits into complex categories of identity and indigeneity. Their applicability to Nepal is for Nepalis alone to decide. Our findings are a snapshot of identity politics based upon local level evidence found during the period under review, and are neither definitive nor the final word on identity politics in Nepal.

However, the context of these terms is critical to understanding the positions of all sides in the present debate on social inclusion and federalism. The Carter Center hopes that the data presented here will inform Nepali-led debates on these two issues, which appear to have stalled since May 2012; it also intends to aid a contemporary understanding of identity politics for organizations working on Nepal who are familiar with the country's recent history. To this end, the report begins with a brief summary of identity politics throughout Nepal's recent political history. It then highlights the context in which identity-based organizations (IBOs) have articulated their message about identity, as well as their positions on federalism and perceptions of Nepali politics at both the national and local level. The report also highlights the impact IBO activity has had on increasing awareness of federalism at the local level.

Selected findings from this report include:

- Many of the underlying demands of identity-based organizations have not changed in the past 12 months, despite the fluctuation in levels of activity in identity-based mobilizations;

- Identity-based actors (used in this report to refer to groups organizing on behalf of – if not always explicitly for – a particular caste, ethnic, regional, or other groups), appear to be active in boosting membership and expanding their presence at the local level, but conducted few visible activities. The one notable exception to this trend is the movements around April/May 2012. Those public activities observed ranged from legal campaigning and information drives about their political demands (particularly over federalism) to the sporadic use of more aggressive tactics in local communities by a small number of groups.

- Political parties tend to remain more dominant than identity-based actors in most districts, although the latter are challenging political party dominance over the issue of federalism in some areas, especially in the Eastern and Far Western regions.

- Relations between Nepal's three largest political parties – the Nepali Congress (NC), the Communist Party of Nepal – Unified Marxist Leninist (CPN-UML or UML), and Unified Communist Party of Nepal – Maoist (UCPN[M]) – and Janajati-Adivasi identity-based organizations have become increasingly subject to tensions, mainly because of recent debates on federalism.

- Lower-level political party cadres, as well as members of their affiliated ethnic sister wings, have expressed frustration with their respective leadership for failing to engage in dialogue or demonstrate leadership on the issue of federalism.

- There is a widespread lack of information about different forms of federalism among citizens, primarily because peace process stakeholders – such as political parties, civil society, media, and the government – appear to have not sufficiently shared information on the topic, while also representing these issues in a manner to serve their own short-term interests. This has contributed to escalating fears and tensions over federalism, despite many citizens believing the state should be decentralized in some form and that it should do more to protect cultural and linguistic traditions within their respective communities.

- Identity-based mobilizations in April/May 2012 did not spark widespread communal tensions but worsened relations in some areas of Nepal. Relations in these places improved soon after the Constituent Assembly was dissolved, although local conflict mediation efforts appeared to have helped to diffuse tension.

- Fears of communal tensions increased among citizens after May 2012, as those protests confirmed the already popular belief that disputes over federalism were one of the most likely triggers of communal tension across Nepal.

The report concludes with several recommendations including:

- Political parties, identity-based organizations, civil society, the media, and local government should do more to increase public understanding of different forms of federalism and relevant terms at the local level in order to facilitate an informed discussion and debate.
- Nepali constitution-drafters should develop, and widely publicize, a baseline of basic rights which each Nepali citizen will be guaranteed, irrespective of their ethnicity and the delineation of future federal states.
- Peace process stakeholders and those drafting the constitution should discuss mechanisms to ensure social inclusion within a future federal setup of all sections of society, particularly those that are not geographically concentrated in certain regions.
- Demonstration organizers and participants should respect freedom of speech and the right to peaceful protest, especially around major constitutional deadlines.
- Conflict management best practices should be developed at the local level.
- Peace process stakeholders should increase local level dialogue between police, political parties, civil society and citizens around major national-level deadlines.

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I. INTRODUCTION

Since the restoration of multi-party democracy in 1990, Nepal's national and local level polity has experienced considerable transformation. A major trend in this period is rising levels of political activism based on specific forms of identity, including ethnicity, caste, region, class, and gender. Identity politics remains one of the most important – and most misunderstood – contemporary political issues facing Nepal, particularly in its increasingly complex relationship with the sensitive topic of federalism. Both of these issues provided context for escalating tensions and aggressive protests around the deadline for the Constituent Assembly to complete a constitution in May 2012. Identity politics and federalism remain key features of the national debate, despite not being at the forefront of immediate political discussions. They demand a timely analysis now, in the hope of ensuring a more positive outcome when the constitutional process, and debates on both issues, resumes once more.

This report intends to explore one aspect of identity politics in Nepal, namely the recent identity-based mobilizations in April/May 2012, placing them in the context of data collected by The Carter Center since 2009. The Center's observations look at the role of identity-based organizations, their relations with mainstream political parties, communal tensions, and their impact on recent discussions about federalism. Our observations help explain the background to mobilizations in April/May 2012, explore examples of high tensions, and areas where positive measures reduced tensions. This report also highlights the views of citizens on all of these topics.

The Carter Center is an international observation mission with a mandate from Nepal's political parties to observe the peace process and constitution drafting process (of which identity issues are a direct part, as outlined below). The Carter Center is not a donor or development agency, and does not fund any Nepali organizations, nor does it carry out development tasks. However, the Center hopes that the data presented here will inform Nepali-led debates on federalism and the search for appropriate mechanisms to address ethnic and social inequality – including access to economic and political opportunities – which appear to have stalled since May 2012; it also intends to aid a contemporary understanding of identity politics for organizations working on Nepal who are familiar with the country's recent history.

The Carter Center recognizes the sensitivity for Nepalis and internationals to discuss issues such as identity politics and federalism. In this light, the Center wishes to express its immense gratitude to representatives from political parties, media, civil society, government officials, and citizens who participated during the research of this report and contributed to its findings.

A. Federalism in the Comprehensive Peace Agreement and Interim Constitution

A history of exclusionary practices and a highly centralized state has been recognized as one of the main factors that fueled the decade-long armed conflict in Nepal.[1] As a result, inclusion of historically marginalized communities was a key feature in both the Comprehensive Peace Agreement (CPA) signed in November 2006, and the Interim Constitution in 2007. The commitment to state restructuring was encapsulated in the CPA signed by former Prime Minister Girija Prasad Koirala and Maoist Chairman Pushpa Kamal Dahal 'Prachanda.' Specifically, it stated an agreement for: "…progressive restructuring of the state by resolving prevailing problems related with class, ethnicity, regional and gender differences… [and] to ensure … [a] forward looking political resolution, democratic restructuring of the state and economic, social and cultural transformation through the Constituent Assembly."

[1] See, amongst others, Harka Gurung, 2003. Nepal: Maoist Insurgency and Indigenous People, Nepal Journal of Contemporary Studies 3:2, p.3-16.

In particular, Clause 3.5 of the CPA states:

- "Dismantle the existing centralized and unitary state system and restructure it into an inclusive, democratic progressive system to address various problems including that of women, Dalits, indigenous community, Madhesis, oppressed, ignored and minority communities, backward regions by ending prevailing class, ethnic, linguistic, gender, cultural, religious, and regional discrimination."

Furthermore, Clause 8.4 states that:

- "Both parties express commitment that the Interim Council of Ministers shall constitute and determine the working procedures of the National Peace and Rehabilitation Commission, the Truth and Reconciliation Commission, the High-level State Restructuring Recommendation Commission, and other mechanisms as per the need to implement this agreement, the interim constitution and all the decisions, agreements, and understandings reached between the Seven-party Alliance, the Government of Nepal, and the CPN (Maoist)."[2]

Moreover, Nepal formally committed itself to federal state restructuring after amending Article 138 of the interim constitution in April 2007. Amended Article 138 of the interim constitution states:

1. "To bring an end to discrimination based on class, caste, language, gender, culture, religion and region by eliminating the centralized and unitary form of the State, the State shall be made inclusive and restructured into a progressive, democratic federal system.[3]

2. A High Level Commission shall be constituted to make recommendations for the restructuring of the State in accordance with clause (1). The composition, function, duty, power and terms of service of such Commission shall be as determined by the Government of Nepal.

3. The final decision relating to the structure of the State and federal system shall be made by the Constituent Assembly."[4]

B. Notes on Reading This Report

This report is policy-oriented in nature and does not directly engage with the extensive social science debates on the fluid and complex formation of identity, ethnicity, or indigeneity in Nepal.[5] Indeed, where observers asked people about their ethnic or caste affiliations, answers were reported as given without further investigation. The report is part of a series of Carter Center observation reports in line with its mandate to observe the peace process and constitution-drafting process, with a specific emphasis on local level politics in Nepal. For more on The Carter Center methodology see section below, as well as previous published reports.[6]

The nature of political identities and claims for group-based political rights in Nepal has become a matter of intense debate. Definitions of who is 'ethnic' or 'indigenous' and what rights can be claimed in their name, have become a highly contested topic. Thus, terms such as Adivasi, Janajati, or Madhesi – along with other terms frequently used during discussions on politics – are extremely

[2] Comprehensive Peace Agreement, November 2006, Unofficial Translation, http://www.satp.org/satporgtp/countries/nepal/document/papers/peaceagreement.htm
[3] This was added after the First Amendment to the Constitution made in January 2007.
[4] Article 138, "Progressive Restructuring of the State", Interim Constitution, 2007.
[5] For some academic examples of this among many debates on ethnicity, identity and indigineity see Gellner, D. N., J. Pfaff-Czarnecka and J. Whelpton (eds.). 2008. Nationalism and Ethnicity in Nepal: The Politics of Culture in Contemporary Nepal. Kathmandu: Vajra; Hangen, S. 2010. The Rise of Ethnic Politics in Nepal: Democracy in the Margins. London: Routledge; Mishra C. and O. Gurung (eds.) 2012. Ethnicity and Federalisation in Nepal. Kirtipur, Kathmandu: TU.
[6] For previous reports see: http://www.cartercenter.org/countries/nepal-peace.html

complicated and deserve closer scrutiny. This report shall highlight the context in which identity-based actors have articulated their message about identity, and their positions on federalism and perceptions of Nepali politics in general, at the local level. Often Carter Center observers found a profound lack of information about the terms and concepts used in this debate among ordinary citizens, but also among activists and even some politicians.

This report reflects The Carter Center's findings from the field and highlights disputes where relevant, but does not take a position on which community fits into these categories, nor how to best address their rights. That said, The Carter Center does recommend that political parties, civil society, the media, and local government should do more to increase understanding about different forms of federalism, rights of inclusion, and participation for all members of society at the local level, given the level of limited popular awareness that currently exists about this critical area of the peace process.[7]

A wide spectrum of identity-based activities exists across Nepal. Many identity-based actors have long focused on cultural preservation (such as promoting their identity group's language, art, music, dress, and traditional festivals) while others focus on implementing development projects for their communities. In recent times, an increasing number of groups have carried out political campaigns or a combination of political, cultural, and other types of activities. Amongst these different types of identity-based organizations or actors, there are several which have a clearly articulated federal agenda; some groups have also called for different forms of recognition and rights by the state for their ethnic community or caste. This change in national and local level political activity demands closer analysis as Nepal looks to finalize a new constitution and complete the peace process.

Identity-based actors have generally been defined in this report as non-governmental organizations, networks, and movements that mobilize and work primarily on the basis of ethnic, indigenous, or regional identity; some of those groups have historically promoted cultural or linguistic rights, but have become increasingly active in politics in recent years. Such actors may employ a variety of strategies and include a range of different forms of organization. This broad definition includes groups claiming to represent ethnic and indigenous communities as well as the Brahmin Samaj and Chhetri Samaj Nepal. For the purposes of this report, the definition also includes Limbu parties (such as the Federal Limbuwan State Council – FDNF-affiliated), as well as the Undivided Far West movement, all of whom exist to further the aims of a particular ethnic or geographic community.[8] While some of these groups explicitly support ethnic or identity-based federalism, others advocate for a geographic-based federal restructuring of Nepal.[9] It should be noted that Madhesi political parties are also described as identity-based actors, as they were borne out of, and continue to articulate, an identity-based agenda. Although they are much larger than any other identity-based actors (including a much

[7] It should be noted that members of the domestic and international community have coordinated substantive work designed to increase understanding of federalism at the local level. For example, please see interaction dialogues, focus groups and published 'Federalism Dialogues' by the Support to Participatory Constitution Building in Nepal (SPCBN) by the UNDP, http://www.ccd.org.np/

[8] Significantly this definition includes both groups who claim to represent sections of the population that have historically been marginalized, as well as those groups who have been overrepresented in positions of power and the state.

[9] Identity-based federalism is an umbrella term which includes support for ethnic and multiple-ethnic names for prospective federal states. However, the concepts of ethnic and identity-based federalism are distinct from each other. While demands for an ethnic-based federalism (sometimes also referred to as single-identity based federalism) generally implies some measure of priority rights for the denoted ethnic group within 'their state', identity-based federalism often reflects the desire for recognition of the respective community in the naming of the state. As this report highlights, support for which identity or identities should be adopted for federal nomenclature differs between and within regions. For example, in visits across the Eastern Region, observers met many Limbuwan activists (such as both factions of the FLSC) supporting the concept of a Limbuwan state. However, other Limbuwan groups, as well as organizations such as the Kirat Yakthung Chumlung, stressed to observers that they were in favor of identity based federalism rather than ethnic based federalism. Where necessary, this report will make the distinction clear where demands for federalism – and indeed other areas of political activity and communal relations – is based specifically on ethnicity or the broader category of identity. Conversely, the term geographic-based federalism in the political debate in Nepal is often used to denote proposals that reject outright any ethnic reference in the names for future states. Usually these proposals also call for the inclusion of a section of all three topographic zones (mountain, hills and Tarai) in newly to be formed states.

larger share of Constituent Assembly constituency seats) discussed in this report, their political activity (or inactivity) have been found to exhibit similar patterns. However, specific trends about Madhesi parties are highlighted where relevant and/or are notably different to other identity-based actors.

The report also describes proposed federal regions as 'states,' not to be confused with the current Nepali state itself. The terms Janajati and Adivasi are used synonymously in this report and refer to citizens of different historically marginalized communities (with mother tongues other than Nepali) in line with government-led definitions of indigenous nationalities and to groups and organizations such as the Federal Limbuwan State Council (FLSC), the Tharuhat movement, or the Nepal Federation of Indigenous Nationalities (NEFIN) who claim to represent their interest. It is important to note that, after protests by the National Integrity and Ethnic Goodwill Joint Struggle Committee (NIEG), an alliance which includes the Brahmin Samaj and Chhetri Samaj Nepal on May 17, 2012, the government pledged to formally recognize Brahmins and Chhetris as indigenous to Nepal.[10]

C. Methodology

The findings included in this report are primarily based on qualitative data gathered by The Carter Center long-term observers from September 2011 until December 2012. These are highlighted in sections IV-VII. The report is based on evidence collected from 59 districts and should be viewed as a snapshot of identity politics during this period. Additionally, the report draws on more general observation findings gathered since 2009.[11]

During their visits, Carter Center observers visited district headquarters and multiple Village Development Committees in each district to understand the local identity politics context, especially in terms of assessing local dynamics, the state of communal relations or tensions (if any) and local views on federalism. Observers interviewed hundreds of political party representatives, government officials, civil society representatives, representatives of a broad range of identity-based organizations, journalists, the police, and citizens. Questions asked were based on a standardized questionnaire used in each district visit. These were aimed at identifying identity-based organizations active in the district, local areas of tensions and cooperation, views on federalism, and how these issues fitted into local political dynamics. At least 10 citizens were interviewed about their views during each district visit with observers randomly choosing citizens to interview. Questions were asked in an open-ended manner and responses accepted as given. Observers were also trained not to introduce leading terms into the conversation. In some cases, identifying information has been withheld in order to maintain the security and confidentiality of the individuals with whom the Center spoke.

[10] In Nepali political debates there is a consistent lack of recognition that language shapes perceptions, often in ways detrimental to the actual debate. As noted in a recent report by the UN, this is clearly shown in debates over the terms Adivasi and Janajati: "Although often used synonymously, different understandings of the terms *Adibasi* and *Janajati* exist, which has been a source of contest and tension between groups such as NEFIN and [Chhetri Samaj Nepal]. In its literal sense, *Adibasi* means 'first settler', but it is commonly translated into English as 'indigenous', while *Janajati* is translated as 'indigenous nationality' and defined by the [Government of Nepal] in the National Foundation for Development of Indigenous Nationalities (NFDIN) Act 2002, as 'A tribe or community having its own mother tongue and traditional rites and customs, distinct cultural identity and social structure, and written or unwritten history'. Although *Janajati* and *Adibasi* are distinct in meaning, even some *Janajati* actors accept that the difference is not always easy to explain." UN Resident and Humanitarian Coordinator's Office (RCHCO), "Perspectives on Chhetri identity and how these relate to federalism," Issue 46, Field Bulletin, September 2012.

[11] The Carter Center observers collected information on identity politics between September 2011 and June 2012 from visits to Kathmandu, Bhaktapur, Lalitpur, Kavrepalanchok, Chitwan, Dhanusha, Makwanpur, Mahottari, Sindhupalchok, Rautahat, Parsa, Dhading, Dolakha, Nuwakot, Bara, Okhaldhunga, Sankhuwasabha, Taplejung, Udayapur, Ilam, Jhapa, Siraha, Solukhumbu, Sunsari, Tehrathum, Morang, Dhankuta, Nawalparasi, Kaski, Lamjung, Arghakhanchi, Kapilvastu, Baglung, Rupandehi, Manang, Palpa, Dang, Banke, Surkhet, Rukum, Dailekh, Bardiya, Rolpa, Jumla, Kailali, Kanchanpur, Baitadi, Darchula, Doti, Jajarkot, Achham, and Dadeldhura. At the height of recent identity-based mobilizations and from April to June 2012, The Carter Center also followed up on identity politics by visiting or collecting information by phone from 23 districts.

II. IDENTITY POLITICS IN NEPAL

A. Context

Questions of identity in Nepal have historically been linked to processes of state formation. These are complicated in a country as ethnically diverse as Nepal – over 123 languages and 125 ethnic and caste groups were recorded in the 2011 Census, where no one of these groups is the majority in any region of the country. Before 1950, Nepal was an autocracy ruled by a Rana oligarchy which upheld a strict and highly discriminatory caste hierarchy as codified in the 1854 Muluki Ain (a legal code that classified the country's various ethnic and caste groups into a rigid and formalized hierarchy where each group had specific rights and responsibilities). Although reports of ethnic-based resistance, such as Limbu movements in the Eastern region of Nepal, are recorded as early as the late eighteenth century,[12] modern forms of ethnic-based activism and organization date back to the brief democratic period between 1951 and 1960, which opened up opportunities for various long-held grievances to be voiced in the public sphere. A number of identity-based organizations (especially those focused on the promotion of language and culture) were formed during that period, illustrating their long history in Nepal. This included the Tamang Bhasa Sanskriti Bikas Samiti (Tamang Language and Culture Development Committee), Tamu Dhi Pariwar (Tamu Dhi family - a Gurung organization), Rai Limbu Samaj Sudhar (Rai Limbu Reform Society), and, slightly earlier, the Tharu Kalyankarini Sabha (Tharu Welfare Assembly). The 1950s also saw the first regionalist mobilization with the formation of the Nepal Tarai Congress, who demanded an autonomous Tarai state, recognition of Hindi as an administrative language, and more jobs in government for people from the Tarai.

From 1960 until 1990, Nepal was governed by an autocratic monarchy under the garb of a neo-traditionalist model of a 'guided democracy' known as the Panchayat system. The Panchayat system abolished the elected parliament, banned political parties, restricted nongovernmental organizations and their activities, outlawed opposition activism, and promoted integrative Nepali nationalism based around the slogan of 'one language, one dress and one country' (*ek bhasa, ek bhes, ek des*). In this era, Hinduism was the official state religion, and Nepali was promoted as the national language.[13] Languages other than Nepali were depicted as traditional or 'backward' and remained relegated to the private realm. In state and public affairs, the dominance of traditionally privileged caste groups and to some extent Newars continued.

The Panchayat era ended following mass political protests in 1990. A new constitution was promulgated, parliamentary democracy established and, as a result, room was created for the expression of ethnic discontent and demands. Identity-based mobilizations became more visible as one of many changes in Nepali society. The 1990 constitution formally recognized ethnic, religious, and linguistic diversity but Nepal remained a Hindu monarchy with Nepali as the sole official language.[14] As academic Michael Hutt noted, "The new constitution [of 1990] did meet the demands of the democracy movement…but communal groups have been granted only minor, non-fundamental concessions."[15] Public suggestions were sought during the drafting of the Constitution. The Chair of the Constitution Drafting Commission, Justice Bishwonath Upadhyaya, was noted to have "expressed dismay over the fact that the vast majority of suggestions…concerned linguistic, religious, ethnic, and regional issues," which were, according to him, "peripheral" issues. This indicates that by 1990,

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[12] For more on this, including examples of Limbu resistance movements in the 1790s, see Susan Hangen, Creating a New Nepal: Ethnic Dimension; Policy Studies 34, East-West Center, Washington, available at http://www.eastwestcenter.org/fileadmin/stored/pdfs/ps034.pdf

[13] For one illustrative example of how the Panchayat era views on nationalism were formed and promoted see Pratyoush Onta, 1996. Ambivalence Denied: The Making of Rastriya Itihas in Panchayat Era Textbooks. Contributions to Nepalese Studies 23:1, p.213-54.

[14] Article 4(1), Constitution of Nepal 1990; Nepal is a multiethnic, multilingual, democratic, independent, indivisible, sovereign, Hindu and Constitutional Monarchical Kingdom.

[15] Michael Hutt, Drafting the Nepal Constitution 1990, p.1038 available at **http://www.constitutionnet.org/files/Huttpercent20Drafting_Nepal_Constitution1990.pdf**

issues related to identity were of significant interest to the Nepali public but national leaders would struggle to understand and incorporate these into the new constitution.[16] Many identity-based organizations were formed after 1990.[17] Most prominent among them was what later came to be known as NEFIN, an umbrella organization of different ethnic groups, which also became a "key interlocutor for government and donors."[18] However, because of continuing legal hurdles, ethnic and regional parties were barred from registering with the Election Commission of Nepal although their members could stand in elections as independent candidates.[19]

The government made some efforts to address issues related to ethnicity, identity and language after 1990 including establishing various committees to formulate policies and introducing separate budgetary programs for Janajati development. The passage of the Nepal Federation for the Development of Indigenous Nationalities (NEFDIN) Act in 2002 marked an important milestone for ethnic activism in Nepal. It recognized Adivasi Janajati (or "indigenous nationalities") as a legal category, establishing the criteria a group has to fulfill to qualify and listed 59 officially recognized Janajati groups.[20] Subsequently, social inclusion was introduced as one of the pillars of poverty reduction programs in the Tenth Development Plan (2002-2007). Similarly, special programs for Adivasi Janajatis were introduced in the interim plan of 2008-2011. However, prior to 2006, many of the government policies addressing these explicit Janajati concerns remained largely an adjunct to regular government programs and were not mainstreamed within wider state policies. The dominance of historically overrepresented caste groups in key position of society, administration, and the state is generally acknowledged to have continued.[21]

The Maoist insurgency starting from 1996 also became intimately linked to identity issues. Ethnic aspirations were included in Maoist programs and policies.[22] On Feb. 4, 1996, the Joint People's Front led by Baburam Bhattarai submitted a 40-point demand to the prime minister of Nepal; four points were related to questions of religion, ethnicity, caste, and language.[23] In 1998, the party established a central level ethnic department, led by Dev Gurung. The party later promoted nine autonomous zones, seven of which were formed on the basis of 'oppressed' ethnic or regional identities and two on the basis of state neglect due to the region's remoteness.[24] Following the royal massacre in 2001, the escalation of the conflict and subsequent take-over by King Gyanendra paved the way for the Maoists and the Seven Party Alliance rapprochement, which then culminated in large-scale demonstrations

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[16] *Ibid*, p.1028

[17] See Susan Hangen, 2010. The Rise of Ethnic Politics in Nepal: Democracy in the Margins. London: Routledge, p.44

[18] International Crisis Group, 2011. Nepal: Identity Politics and Federalism, Asia Report No 199, January 2011, p.5
One of NEFIN's major achievements was to establish the category of Adivasi Janajati or indigenous nationalities in the political discourse within Nepal. See Hangen, S. 2010. *Op cit.*, p.38-39.

[19] "Article 112(3) of the 1990 constitution barred the Election Commission from recognizing or registering any political party explicitly formed 'on the basis of religion, community, caste, tribe or region'". Hangen, S. 2010. *Op cit.*, p.44-45. However, by adopting an outwardly open platform and inclusive symbols, some identity based parties like the Nepal Sadbhavna Party and the Rashtriya Janamukti Party managed to evade legal hurdles and got registered with Election Commission in the 1990s. Significantly, the Interim Constitution of 2006/07 upheld the ban on parties based on 'religion, community, caste, tribe or region', although it remained unenforced in the Constituent Assembly-elections of 2008. See Ibid, p.45.

[20] International Crisis Group, 2011. *Op Cit,* p.5.

[21] See Mahendra, Lawoti, 2005. Towards a Democratic Nepal: Inclusive Political Institutions for a Multicultural Society. Los Angeles: Sage.

[22] For more detail on the complex link between the Maoists and ethnic groups see Mukta S. Tamang, 2006. Culture, Caste and Ethnicity in the Maoist Movement. Studies in Nepali History and Society. 11(2): 271–301.

[23] Point No. 18, Nepal should be declared a secular nation. Point No. 20, all forms of exploitation and oppression on the basis of caste/ethnicity should end. Ethnic autonomy should be granted in areas where ethnic communities are in majority. Point No. 21, Discrimination against Dalits and untouchables should end completely. Point No. 22, All languages should be equal. Arrangement should be made for providing education in mother language up to the higher secondary level (rough translation of the 40 point demand submitted by Joint People's Front).

[24] Kiyoko Ogura, "Maoist People's Government in 2001-2005, the Power in Wartime" in *Local Democracy in South Asia: Microprocesses of Democratization in Nepal and its neighbours.* (Delhi, 2008), p.175-231.

that became known as the People's Movement II (Jana Andolan II) and ended King Gyanendra's reign.[25]

In this light, a Comprehensive Peace Agreement (CPA) was signed between the Maoists and the Seven Party Alliance formally ending the 10-year civil war. The CPA in 2006 "called for a democratic restructuring of the state and social, economic and cultural transformation through the decisions of the constituent assembly" but did not mention federalism.[26] Expectations regarding the peace process differed greatly. Political parties viewed it as a process between themselves, primarily in order to end the conflict and incorporate the Maoists into the mainstream. Meanwhile, marginalized groups, including Madhesis, understood "New Nepal" as the moment when promises of participation and social inclusion would be central to a new social contract between the state and its citizens.

In 2007, the parliament passed the interim constitution, which did not mention federalism and only reiterated a commitment toward state restructuring. Consequently, Madhesi activists took to the streets and burned the interim constitution in Kathmandu, sparking the Madhes Andolan. The protests continued despite Prime Minister GP Koirala's commitment to federalism on a televised speech and stopped only after the parliament passed the 1st amendment to the interim constitution in April 2007, which called "for the state to be restructured into a "democratic, federal system."[27] Meanwhile, groups such as the FLSC in the Eastern hills and the Tharuhat Autonomous State Council in the Western Tarai, were becoming more active after 2006, often to promote implementation of ILO 169 and to protest against alleged exploitation of natural resources by state elites.[28]

The Constituent Assembly elections were held in April 2008 after the parties reached an agreement on declaring Nepal a federal democratic republic and using a mixed electoral system of proportional representation and first-past-the-post constituency seats. The debate on the electoral system was also related to identity politics, with many identity groups protesting for a total proportional quota system rather than the mixed system which was eventually adopted.[29] In addition, the United Democratic Madhesi Front (UDMF), a coalition of Madhesi parties, carried out a 16-day Tarai *bandh* (strike) in February 2008, in part to demand greater representation in the Constituent Assembly electoral system and also for a single Madhesi federal state. Following this *bandh*, an 8-point agreement was reached with the government. Election commission registration deadlines were also extended to enable Madhesi political parties to participate in the election. When submitting lists of candidates to the election commission in 2008, political parties were required to meet quotas on these lists for women (50 percent of all candidates), Dalits (13 percent), indigenous ethnic groups (Adivasi-Janajatis, 37.8 percent), "backward regions" (4 percent), and Madhesis (31.2 percent). A separate "other" category was also created (30.2 percent), which came to mean "everyone else in Nepal," effectively creating a term and quota for historically advantaged groups which resurfaced in later debates on federalism.[30]

The Constituent Assembly became the most inclusive elected body in Nepal's history. Not only were national parties obliged to fulfill quotas for the members of their parliamentary groups elected under the proportional representation system, but also Madhesi parties as regional parties, who in total

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[25] For more on final months of the conflict, see 'Nepal in Transition: From People's War to Fragile Peace,' (Cambridge: Cambridge University Press, 2012).
[26] International Crisis Group, 2011, *Op Cit.*, p.7.
[27] International Crisis Group, Nepal: Identity Politics and Federalism, Asia Report No 199, January 2011, p.8.
[28] International Labour Organization Convention 169 (ILO 169) 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. As noted in the Carter Center's August and November 2009 reports, ILO 169 was ratified by the Government of Nepal in September 2007.
[29] Catinca Slavu writes that the actual choice of a mixed electoral system "reflected a rushed compromise between the NC and other mainstream parties, which wanted to retain a pure first-past-the-post system, and the CPN-M, which preferred a list proportional system for the entire assembly" Catinca Slavu, "The 2008 Constituent Assembly Election: Social Inclusion for Peace" in *Nepal in Transition: From People's War to Fragile Peace* (New York, 2012), p.241.
[30] See The Carter Center, "Observing the 2008 Nepal Constituent Assembly Election" May 2009, p.64. http://www.cartercenter.org/countries/nepal-peace.html

scored 83 seats in the assembly (43 first-past-the-post, 40 proportional representation), became the fourth largest political force in the Constituent Assembly and have formed part of government coalitions since this time. The Constituent Assembly also included representatives from small largely ethnic and identity-based parties like the Rastriya Janamukti Party, the Dalit Janajati Party, the Nepa Rastriya Party, and the Federal Democratic National Front.

Federalism remained on the Constituent Assembly agenda, although opinions on forms of federalism and number of states appropriate for Nepal widely differed; NC and UML opposed any form of "single identity federalism" and pressed for more than two states in the Tarai.[31] For reasons of economic viability, both parties favored a maximum of seven states in Nepal. The UCPN(M) officially endorsed naming states after a dominant indigenous group though they refer to them by the Leninist concept of nationalities. In terms of number, the Maoists have proposed either 10 or 14 states. Madhesi political parties in turn favored naming states after a dominant ethnic group, though they were more concerned with securing their key demand of 'One Madhes, One Pradesh' (only one province in Tarai).[32] Madhesi parties also strongly opposed any North-South delineation of states.

In late January 2010, the Constituent Assembly Committee on State Restructuring and Distribution of State Power agreed on 14 states through a simple majority vote of the 41-member committee. The committee proposed 14 states and 23 autonomous areas with the proposals being formed around "identity and capability."[33] Two years later, the highly contested and long delayed State Restructuring Commission, formed by the government to suggest models for federalism (as it was mandated to do by the CPA and the interim constitution), submitted two (majority and minority) reports in late January 2012. The majority report advised the government to divide the country into 10 states, with some limited political priority rights to dominant ethnic groups, plus a "non-territorial" Dalit state.[34] A minority report, prepared by dissenting members, suggested that the country be divided into six states including two in the Tarai and four in hills and mountains, all being along the basis of economic viability.[35]

B. April/May 2012

Identity-based organizations, as well as other interest groups, remained concerned about the political process throughout the transition period since 2006. Despite the relative inclusiveness of Constituent Assembly membership, key decisions of the constitution drafting process appeared to be taken behind closed doors, and the general impression prevailed that to get one's concerns addressed, pressure had

[31] Both parties opposed naming of the states after the dominant indigenous group (i.e. Limbuwan, Newa) although they were open for multi-ethnic-identity combined with geographical names (i.e. Limbuwan-Kirant-Mechi, Newa-Bagmati). For some of the internal disagreements over the line of federalism within both parties, see also findings in section IV. Moreover, on January 20, 2013, the Nepali Congress Central Working Committee (CWC) decided to lay down 17 basis, including religion, caste, language, culture, geography, economic viability, power of states, marginalized groups' claim over natural resources of the concern states, and others, on which to incorporate identity of various ethnic groups in a future federal structure. The CWC discussed a report, earlier presented by the late CWC member Bhim Bahadur Tamang, and decided to accept multi-ethnic identity in federalizing states (i.e. naming and empowering ethnic groups' claim over their culture, religion, language, natural resources). This development indicates the NC's shift towards identity issues on federalism.

[32] Madhesi parties reportedly support for a maximum of two states in the Tarai in any proposed new federal model of Nepal.

[33] UML Janajati representatives allied themselves with Maoists and voted against the official UML party policy. This allowed the proposal to pass in committee by a simple majority. NC presented a dissenting minority opinion proposing a 6-province state, north-south federal model similar to current development regions. Full report available at, http://www.ncf.org.np/upload/Constituent Assembly/Concept_Paper_Restructuring_State_GTZ_ENG.pdf

[34] Rather than assigning all ethnic and caste groups one state, a non-territorial state is designed to represent an identity group (whether that is based on ethnicity or caste) from across the country in the Constituent Assembly. The majority report of the State Restructuring Commission at 3.13.1 states: "For the states formed on the basis of a dominant castes or ethnic groups, these should get political priority rights for top political position in the state. The provision will expire after two tenures." (unofficial translation, The Carter Center). For the Nepali version of the report see http://www.can.gov.np/en/publications/view/68

[35] In the seven-member committee, the majority proposal was supported by UCPN(M), Madhesi parties and one UML representative. Three members (two from NC and one from UML) wrote a note of dissent and submitted a separate federal model. See "How majority, minority reports differ", *The Kathmandu Post,* 2 February 2012.

to be applied on government and the leadership of political parties through street protests and agitations. Decisions and agreements related to the constitution drafting process also provided a key political trigger for identity-based organization activity. Deadlines for major political agreements served to spark small-scale protests. As the May 27, 2012 constitution deadline approached and it became increasingly clear that a draft or full constitution might finally be produced (including a decision on federalism), Nepal witnessed its most intense identity-based mobilizations since the Madhes Andolan of 2007 and 2008.

As the constitutional deadline approached, a wide range of groups intensified protest programs, enforced *bandhs* and transportation strikes, and carried out demonstrations across the country with conflicting demands related to federal state restructuring. Large-scale protests were led by NEFIN, Adivasi Janajati organizations through the Indigenous Nationalities Joint Struggle Committee (INJSC) and by the newly formed National Integrity and Ethnic Goodwill Joint Struggle Committee (NIEG),[36] an alliance of 11 different groups including the Brahmin Samaj and Chhetri Samaj Nepal.

A rough agreement on 11 federal states was reached between the three main parties on May 15, 2012. However, strong dissent was conveyed nationally by indigenous and Madhesi political and civil society actors. Members of the ruling coalition subsequently distanced themselves from the compromise. *Bandhs* and protests by the Muslim community, INJSC, Madhesi activists and the NIEG led to an increasingly tense situation, with the government eventually reaching various agreements with several of these groups, including the government's controversial commitment on May 17 to officially recognize Brahmins and Chhetris as indigenous communities.

On May 10-12 and May 17, NIEG enforced an effective nationwide general strike protesting against ethnicity based federalism and demanding to be removed as 'others' from the constitution and instead included in the list of indigenous nationalities. The INJSC enforced an equally effective nationwide general strike demanding 'identity-based federalism' with 'autonomy' in the new constitution from May 20- 23. The Broader Madhes Front, an alliance of various Madhes-based parties, enforced a Tarai shutdown, demanding a single Madhes province across the Tarai in the new constitution from May 18- 28.

Throughout this period, some areas – particularly ethnically heterogeneous municipalities and Village Development Committees – saw tensions between competing organizations, clashes among organizers and between organizers and the state, and in some cases resulted in heightened communal awareness and sensitivities among the general public and fears of communal violence.

At the national level the Constituent Assembly was dissolved after political leaders from major parties – particularly the incumbent government including the UCPN(M) and six key Madhesi parties on one side, and the opposition led by the NC and UML on the other – failed to reach a compromise, particularly over the issue of state restructuring within the Supreme-Court mandated deadline.[37] Following the dissolution of the assembly, most protest programs were cancelled and previously tense situations calmed. However, local interlocutors note that the dynamics underlying the protests remain and that unrest and violence could resume when a decision on federalism comes closer once more. Although fears of widespread communal violence were not borne out, in some areas interlocutors expressed concern that recent events may have caused lasting damage to inter-communal relations and worried about what future political developments may bring (please see appendices for more details on local level conflict).

[36] According to the national chairperson of the Brahmin Samaj, the NIEG Joint Struggle Committee comprises, amongst others, of Brahmin Samaj, Chhetri Samaj Nepal, Thakuri Samaj, Nath Sampradaya Samaj, Dalit Sewa Samaj, Bived Mukti Pragatisil Samaj and Dasnami Sewa Samaj. Their two main demands were to recognize 17 caste groups including Brahmin and Chhetri as indigenous to Nepal and to not implement any federalization on ethnic basis.

[37] For more on details on events around constitutional deadline, see ICG, Nepal's Constitution: Evolution, not Revolution (I), Asia Report No 233, August 2012, p.12-17.

III. PREVIOUS CARTER CENTER FINDINGS

A. Findings on Identity Politics and Federalism

The Carter Center has made a number of observations on identity politics and federalism in Nepal in previously released reports. It should be noted that the Center's reporting does not support the idea that identity-based organizations have been relatively dormant before increasing dramatically in April/May 2012; rather, our findings indicate that since 2009, identity-based activity in Nepal has increased and decreased at intermittent periods while many underlying issues affecting such organizations remained unaddressed by the government.

The Carter Center in August 2009 noted:

- Limited public debate at the national or local level on state restructuring and that political parties had mostly disengaged themselves from the state restructuring debate after the Constituent Assembly elections.[38]

- High levels of identity-based activism, especially in early to mid-2009. The drive for autonomous ethnic states was leading representatives from marginalized groups to stake claims to smaller autonomous regions, possibly due to fear of being subsumed in a larger state.[39]

- Identity-based actors used ILO Convention 169 as part of their political rhetoric in competing ways.[40]

The Carter Center in February 2010 noted:

- As found in 2009, identity-based activists representing indigenous and marginalized communities took "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."

- Many identity-based organizations supported ethnic-based federalism in order to ensure decentralization and end discrimination against their communities.

- A diversity of views in the Tarai on federalism, especially differences within and between Madhesi and Tharu political groups, including over the concept of "one Madhes."

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[38] Observers reported "that across the country, marginalized groups, and ethnic-based organizations in particular, are unilaterally framing the debate on state restructuring from their own perspective and raising expectations among their respective communities. These groups are promoting demands ranging from official recognition of basic rights, inclusion of local languages in national and local office use, and multiple citizenship certificates, to rights over development policymaking and control of natural resources, to autonomous ethnic states." The Carter Center, "First Interim Report", August 2009, p.4. http://www.cartercenter.org/countries/nepal-peace.html

[39] The FDNF affiliated FLSC led by Kumar Lingden promoted a draft constitution advocating for a Limbuwan federal state. Similarly, *bandhs* organized in the Kathmandu Valley by Newa and Tamsaling Joint Struggle Committees affiliated with Maoists, erection of large billboards saying "Welcome to Tamuwan State" in Lamjung, and an entry gate in Dolakha that read "Welcome to the Himalayan State" all suggested a high level of ethnic activism. This included the Thami, Surel and Jirel communities in Dolakha who reportedly were asking for a provision of autonomy within a Tamsaling State and the Rajbanshi community in Morang district.

[40] For example, in 2009 and 2010 observers noted that the Tharuhat Autonomous State Council (TASC) carried out roadside 'tax collection' in Banke, Bardiya, and Dang and reportedly extorted money from Village Development Committees offices claiming it as taxation on the use of natural resources in Kailali. Limbuwan Volunteers affiliated to all three FLSC factions were reportedly also involved in forced donations in 2010. See The Carter Center, "Political Party Youth Wings in Nepal," February 28, 2012, p.12.

The growth of the Chhetri Samaj Nepal and increasing activities by the Far Western Awareness Forum, in response to the mobilization of indigenous organizations demanding ethnic-based states.[41]

The Carter Center in November 2010 noted:

- A general decrease in identity-based activities due to splits and internal factionalism, seasonal factors, a lack of central focus on constitutional issues and an increased crackdown on aggressive activities of identity-based groups by local police and administration.

- A decline in Adivasi and Janajati organizations' public activities despite the underlying issues and concerns of these groups remaining unaddressed.

- Many anti-ethnic-federalism Brahmin and Chhetri organizations were found to be extending their organizational reach and capacity although not carrying out many public activities such as demonstrations, rallies or *bandhs*.[42]

B. Citizens' Views

The Carter Center's public reports have often noted that citizens appear alienated from the constitutional process and prioritized basic needs, such as irrigation, education, health, food security, employment, and "peace." That said, in reports from 2009 and 2010, observers talked to citizens about federalism, constitutional issues and what they sought from a new constitution, many of which are still relevant in 2013. These findings included:

- Knowledge of the constitutional process in general was very low among citizens.

- Those citizens who were supportive of Nepal becoming a federal state generally did so because they associated the concept with "decentralization," which they believe would promote development and improve basic service delivery.

- The importance of language and ethnic and Adivasi-Janajati culture preservation was another common theme among citizens, including recognition of, and respect for, cultural practices. An end to discrimination was also cited as a main reason behind the drive for federalism.[43]

- Citizens desired equal rights and equitable representation, with some expressing explicit support for "ethnic-based federalism."

- Basic, impartial information about federalism was not often readily available and information that did reach citizens was sometimes inflammatory and raised concerns that federalism would result in the disintegration of the state or conflict.

- Observers also found that in some areas the efforts of particular ethnic groups were leaving general citizens anxious about the implications of state restructuring and concerned about the protections of minority rights in potential new states.[44]

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[41] See The Carter Center, "Federalism and Constitutional Issues in Nepal: Perspectives from the Local-Level", February 2010 http://www.cartercenter.org/countries/nepal-peace.html

[42] The Carter Center, "Local Political and Peace Process Trends", November 2010 http://www.cartercenter.org/countries/nepal-peace.html

[43] For example, many Madhesis supported federalism because they believe it will bring an end to discrimination. Carter Center observers found opinion among Tarai Madhesis who support federalism to be highly divided regarding the prospects of "one Madhes" a multi-state Madhes, or sub-states within "one Madhes" which recognize Madhesi sub-identity based on culture or language such as Awadhi, Bhojpuri, and Maithili. Tharu citizens throughout the Tarai also echoed a strong desire to see an end to discrimination. However, views over discrimination were not necessarily matched by strong opinions regarding federalism. For more, see The Carter Center, *Op Cit*., November 2010, p.5-6.

IV. LOCAL-LEVEL IDENTITY POLITICS: ACTORS, DEMANDS, AND MOBILIZATIONS

This section seeks to explore broader trends regarding identity politics and identity-based mobilizations based upon data gathered by The Carter Center observers between September 2011 and December 2012. It discusses the relationship between political parties and their ethnic-based sister wings, and outlines observations and analysis on events in April/May 2012, when identity-based mobilization peaked ahead of the Constituent Assembly deadline. The section also looks at broader themes regarding identity-based organizations, notably their activities and dialogue with other identity-based groups which were observed in the period under review. Given that multiple districts are subject to overlapping territorial claims by various groups, the lack of discussion between identity-based organizations about their political goals is particularly concerning. This should be closely monitored as future constitution-drafting deadlines approach.

A. Identity Based Actors: Demands, Activities, and Political Party Relations

Some identity-based organizations, which had previously focused largely on cultural and development activities, appear to have shifted emphasis onto a advocating a more political agenda.

Many identity-based organizations in Nepal that have traditionally concentrated on cultural programs have come to emphasize a strong political agenda since 2008. Typically this has meant a focus on recognition of a particular community's identity and language in the constitution and often also support for an identity-based federalism agenda and calls for proportional representation at all levels of the state. Selected examples include several Gurung groups in Pokhara, Tamang and Newa associations in the Kathmandu Valley, as well as Kirat groups in the Eastern hills, which had become increasingly focused on politics in their programs.[45] An NWPP representative in Bhaktapur told observers, that "the past state policy of one language and one culture [which rendered the practice of alternative cultures and speaking other languages difficult]…was discriminatory to many communities in Nepal. This is why the issue of identity is emerging so strongly now." As a reaction to these increasingly vocal demands for identity-based political rights by historically marginalized communities, observers also noted an increased effort by organizations like Brahmin Samaj or Chhetri Samaj Nepal to strengthen their organization and articulate their objections to proposed ethnic federal states.[46] As noted below, this focus on a political agenda also meant that a number of identity-based

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[44] For example, citizens in Far-Western mountain and hill areas expressed fears about being "cut off" from other parts of the country or "trapped" in areas where there are no resources or industry, leading many to fear the prospect of living in a federal state which was not self-sufficient. For more, see The Carter Center Reports The Carter Center, *Op Cit*, February 2010, p.8.

[45] In Kaski observers reported on internal debates in Tamu Dhi Nepal (a Gurung IBO) in November 2011 over the extent to which it should work with other Gurung organizations and the linked question of whether or not Tamu Dhi should be more politically active in favor of a Tamuwan state, something many youth members reportedly wished to see happen. By May 2012 as the Constituent Assembly deadline neared Tamu Dhi was very active in rallies in Pokhara and, to some extent, could not avoid becoming politicized. Despite this, mobilization of Tamu Dhi supporters was reportedly not as successful at the Village Development Committee level during May 2012. In Udayapur in Eastern Nepal, the Kirat Rai Yayokhha (KRY, an IBO working for Rais), has been carrying out political and cultural activities side by side. Observers visiting in 2010 were told that KRY formerly focused on cultural programs, such as dance shows. Since then and especially as the May 2012 Constituent Assembly deadline neared, KRY emphasized explicitly political activities such as ensuring recognition and rights for Rais in the constitution, supporting a Kirat state and organizing trainings on ILO Convention 169. Kirat Yakthung Chumlung (KYC), a Limbu IBO, has also been carrying out political and cultural activities, but stated explicit political support for identity-based federalism (in particular a Limbuwan state) as the Constituent Assembly deadline neared.

[46] In the Western Region, The Carter Center observers noted since 2010 that Brahmin Samaj and Chhetri Samaj Nepal were actively expanding their organization. UCPN(M) declared the region to be the "Tamuwan Autonomous State" at the end of 2009 during a program organized in Pokhara, a declaration supported by Tamu Dhi Nepal. Brahmin Samaj and Chhetri Samaj Nepal were alarmed by this development and, following the declaration, intensified their activities. They organized rallies and protests programs in Pokhara in 2010; throughout the year, Chhetri Samaj Nepal reportedly also expanded their base to different districts and at Village Development Committee level. Although they were less active in terms of protest activities in 2011, the group returned to the street to protest against ethnic based federalism in 2012.

organizations which were previously apolitical have extended their activities into the political arena – in particular, this meant increasingly challenging the state and mainstream political parties on issues such as social inclusion and federalism.

That said, many other identity-based organizations still remain primarily focused on cultural activities or on advocating for basic development needs. For example, in Baitadi, observers were told in late 2011 by many interlocutors that the lack of development was the main issue affecting people in the district, not other political issues.[47] This included local representatives of Dalit identity-based organizations who were carrying out small development activities. In another example, the NEFIN president in Okhaldhunga stated to observers in early 2012 that identity-based organizations in the district mainly focus on cultural activities and are rarely politically active. They reportedly focused on social and cultural events concerning their own language and culture. However, the NEFIN president predicted that identity groups in Okhaldhunga will become more politically active in the future if "they are bypassed, do not get political representation, and are not included in the mainstream."

For the majority of the period under review, identity-based organizations were largely in a "wait and see" mode – with the significant exception of the wave of activity leading up to the Constituent Assembly's dissolution during April/May 2012. However, throughout this time, committees of various identity-based organizations reported that they were working on internal organizational strengthening and forming local level alliances to expand their reach.[48]

Interlocutors across all development regions of Nepal noted that identity-based actors – like many political parties and civil society groups – had been relatively inactive between September 2011 and December 2012, with most claiming they were in the process of developing their internal organization but would act when a national-level event prompted them to do so; many also informed observers they would wait for directions from their central-level leadership before undertaking any action in this regard. This included groups such as the Tharuhat Autonomous State Council (TASC), Brahmin Samaj and Chhetri Samaj Nepal. For example, in Makwanpur the Maoist-affiliated Tamang Rastriya Mukti Morcha representative told observers in late 2011: "all Janajati organizations have adopted an attitude of wait-and-see. We will come up with our plans on the basis of the Constituent Assembly's final decision on the federalism question." Similarly, observers visiting Kaski in November 2011 found that the Chhetri Samaj Nepal was not conducting any protest programs then because they were awaiting concrete news from the government on whether or not they would be classified as indigenous as well as the outcome of the State Restructuring Commission.

Slight exceptions to this trend were found in the Eastern hills as well as parts of the Western, Central, and Eastern Tarai where levels of identity-based organization activity have been higher in the past. In December 2011, the Federal Limbuwan State Council organized a general strike in nine districts of the Eastern Region, demanding their representation in the State Restructuring Commission per a previous agreement with the Government. Madhesi and Limbu identity-based organizations had also opposed, for different reasons, parts of the Election Commission of Nepal's voter registration process during early to mid-2011.[49] Such developments are partly explained as a response by identity-based

[47] See also UNRCHCO Field Bulletin #34, "The Byashi/Sauka community and the proposed Byash 'autonomous region.'" The report noted that the community in remote Darchula district saw development needs as a priority and that many Byash community members were unaware or unsupportive of the proposed autonomous region.
[48] This has allegedly included the expansion of Diaspora communities fundraising activities in India, Australia, Western Europe and the United States for these groups. International Researcher, In Conversation, November 2012.
[49] See The Carter Center, "Third Interim Statement on the Election Commission of Nepal's 'Voter Register with Photograph' Program," January 31, 2012, p.14. http://www.cartercenter.org/countries/nepal-peace.html.The Election Commission of Nepal successfully reached an agreement in May 2011 with the FDNF-affiliated FLSC faction to allow registration to proceed. While the ECN did not reach a nationwide deal with Madhesi parties, after much long-term effort the ECN was able to negotiate on a district-level basis to reopen voter registration in affected districts.

organizations to (what they perceive) as an opaque political decision-making process, and the lack of any meaningful public debate on key issues in drafting the constitution.[50]

Identity-based activists in some districts accused the major national political parties (NC, UCPN(M), CPN-UML) of hindering the promotion of rights for marginalized ethnic communities, despite the presence of party-affiliated ethnic sister wings.

In districts such as Makwanpur, Arghakhanchi, Kapilvastu, and Nawalparasi, observers found that ethnic sister wings of national parties were rarely active or mobilized by their parties to reach out to communities on identity issues before 2012. This led some identity-based activists to accuse political parties of using their ethnic sister wings to gain support from certain communities without being serious about ensuring their rights and fulfilling their demands on federalism. In Chitwan, for example, NEFIN accused political parties of "cynically using indigenous communities," allegedly encouraging indigenous groups to wear their traditional dress at the biannual Chitwan festival. This, they argued, was diluting the real agenda of identity politics according to some activists in the district who demanded a stronger focus on the concrete and meaningful promotion of the rights of indigenous groups. As alluded to above, such disenchantment about the political process was frequently encountered by Carter Center observers among Janajati activists and to some extent reflects a wider alienation of citizens from the constitutional process, and a widespread frustration with what is perceived as an insincere political leadership.

Most ethnic sister wings of mainstream political parties reported to be following their respective party line on federalism prior to April 2012. However, evidence of worsening relations between them and their affiliated parties on the issue of ethnic based federalism was found both prior to, and after the dissolution of, the Constituent Assembly.

The majority of representatives from ethnic sister wings noted they followed their respective party's direction and position on federalism, especially before April/May 2012. Yet in some of the districts visited, the UCPN(M), NC and UML have faced growing internal difficulties from party members who belong to Adivasi-Janajati groups as well as from ethnic sister wings. This tension has been particularly acute within the NC and UML, which were perceived by many ethnic sister wings as being against ethnic based federalism.[51]

The UCPN(M) appeared to be in a comparatively better position due to its support for ethnic based federalism, but had faced difficulties in managing internal expectations.[52] For example, observers visiting Gorkha in November 2012 were informed that some Maoist cadres from the Chhetri community had participated in Chhetri Samaj Nepal programs during the April/May protests, a development which reportedly had concerned the Maoist leadership in the district. Observers also

[50] Point 4 of Constituent Assembly regulation originally allocates nine weeks for public outreach and local level dissemination, before a new constitution can be promulgated. This period for public outreach on a draft of the new constitution was consistently cut by successive amendments and missed deadlines; as of the third amendment passed on February 13, 2012, Constituent Assembly regulations had no mandated provision for public outreach on the constitution.

[51] In late 2011, the NC official party line on ethnic federalism was flatly opposed by ethnic sister wing activists in Lalitpur. The NC Lalitpur President followed the party line, telling observers that he was firmly against a Newar State and the naming of a federal state with an ethnic name, especially in diverse Kathmandu. However, a NC Newar sister wing representative from the Loktantrik Newa Dabu (LND) said his organization was supportive of special rights for Newars within a Newar federal State, even though this was currently not the NC party line; these differences had reportedly created some internal tension. Similar tensions were found inside the UML. Observers noted divergent views on ethnic based federalism from the district chairman in Bhaktapur and the UML's Newar sister wing, the Nepal Loktantrik Newa Sangh.

[52] Most data about the Maoists was collected prior to the split of the CPN(M) led by Mohan Badiya. The Carter Center is therefore unable to offer much analysis or perspective about the views of members from the CPN(M) who come from marginalized communities, as well as its affiliated ethnic sister wings, about federalism. However, according to some political observers, the UCPN(M) leadership's uncompromising stance and their insistence on a single identity-based federal model in the run-up to the dissolution of the Constituent Assembly, was a direct effort to prevent federalism from being used by internal party dissenters as a tool to gain advantage over the establishment faction. Nepali Researcher, interview, October 2012.

noted that the active involvement of members of political parties in several joint struggle committees in favor of ethnic federalism, such as the Newa Autonomous State Joint Struggle Committee and the Tamsaling Joint Struggle Committee in the Kathmandu Valley had paved the way for problems between political parties and members of their ethnic sister wings, as these demands were in direct contravention to established party positions.

Affiliations were tested during the debates and mobilizations on federalism, which helped demonstrate underlying tensions between political parties and their ethnic group sister wings as well as identity-based activist groups. This split has been most evident over the longest period of time in the Far Western Region, particularly in the hill districts, where representatives of all parties (including the UCPN[M] party) have told Carter Center observers they are in favor of an Undivided Far West even though it was not the official policy of their political leadership. In the Far Western Tarai, some members of political parties supported the Undivided Far West (UFW) protest programs, while members of Tharu sister wings of the same parties took to the streets to support a Tharu province. Local party-affiliated cadres of the UFW movement also refused to call off their protest programs until their demands were fulfilled in writing, despite requests from central-level leaders who also supported their agenda; they cited mistrust of national-level politicians, and said that oral promises and appeals made at the time were insufficient.[53]

Observers visiting Kailali after the Constituent Assembly dissolution in June 2012 reported that tensions between Tharu and Pahadi interests within mainstream political parties were still present. Politics was still largely polarized along identity lines with Pahadis seen to be supporting a UFW agenda while Tharus were predominately still supporting the demand for a Tharu state. Specifically district-level Pahadi leaders from the NC and UML were commonly observed leading the UFW movement while Tharu leaders from all parties and many NGOs were seen at the forefront of the movement for a Tharuhat/Tharuwan state.[54] Despite some exceptions to this trend, many interlocutors told observers that the Pahadi-Tharu ethnic division represented the new political reality for Kailali.[55]

Other splits have been observed in the Eastern Region, where Limbu sister wings of the NC and UML have reportedly become very frustrated with their parties and felt stronger affinity with the NEFIN position than their party position. For example, in Ilam the NEFIN *bandh* was reportedly supported by ethnic sister wings of all three major parties. The aftermath of May 27 saw defections of national-level Janajati leaders from both UML and NC, reportedly over frustrations with their parties' respective stance on identity issues and federalism. The formation of new Janajati-Adivasi parties – such as the Federal Socialist Party and the Social Democratic Party, which include former members of more established political parties such as the UML, in the second half of 2012 – is one outcome of this longer-term trend.[56]

Notably, Madhesi identity-based political activity was relatively quiet between October 2011 and December 2012, although Madhesi interlocutors were still proud of the achievements of the Madhes Andolan.

This lack of political activity stands in contrast to the Madhes Andolan and Constituent Assembly election period from 2007-2008 and even compared to the obstruction of voter registration in early

[53] In Kailali Tharu Maoist activists reportedly heckled Lek Raj Bhatta, a minister and prominent leader of their own party from the district, during a public program because he had openly come out in support of an Undivided Far West. Local party cadres allegedly threatened the minister with "oblivion" if he did not change his stance.
[54] In the Far Western Tarai demands for both Tharuhat and Tharuwan were heard during the April/May protests in order to recognize those participants from the UCPN(M).
[55] See Annex for more details.
[56] At the time of writing, these parties had only just been established and in the process of forming regional, district and Village Development Committee-level committees. The impact of these developments on national and local level politics are therefore hard to assess at this current moment. The Carter Center observers will continue to monitor these developments.

2011.[57] Despite the relative inactivity in Madhesi identity politics in the period under review, many Madhesi interlocutors in Mahottari district noted the increased confidence levels of Madhesis and that now there was wider recognition of Madhesi identity across Nepal. An MJF-N representative in Mahottari told observers in March 2012 that Madhesis now "do not feel ashamed to be recognized as Madhesi wherever they are, rather they feel proud to assert their identity as Madhesi." In Rautahat during January 2012, political party representatives and civil society members said that the Andolan had increased awareness among people of their political and social rights.

Many Madhesi interlocutors were also proud that the Andolan forced the central government to agree to federalism demands. FNJ and MJF-Republic in Rautahat told observers that reservations in public bodies and greater inclusion were a definite achievement of the Andolan but more changes were also needed. Observers visiting Parsa in January 2012 found that the increased political participation of Madhesis at the center and in government was highlighted as another outcome of the Madhes Andolan. Many interlocutors highlighted the high number of Madhesi ministers in the most recent government coalition government (more than 50 percent), which had never happened before.

However, many interlocutors in the Tarai expressed frustration with the leadership of Madhesi parties for failing to build upon the gains made in the Constituent Assembly election.

In Mahottari, observers reported on a widely shared feeling among Madhesi citizens that it was only Madhesi leaders who had benefited from the Andolan, not the common people. An MJF-N representative complained that "the Madhesi leaders have failed to live up to Andolan's spirit and promises and people's expectations. Madhesi parties in the government are gradually giving up the Madhesi agenda and becoming mere puppets to big parties." In Nawalparasi, an MJF-D representative said that civil society actors formed the Madhes Awareness Campaign to put pressure on Madhesi leaders who "have forgotten their commitment to the people and the agreements made with the government."

There was also a widespread view that common citizens had received little direct benefits from the 2007 Andolan. In districts across the Tarai, Madhesi interlocutors also told observers about continued concerns regarding the lack of access to citizenship amongst certain parts of the Madhesi population. Observers heard complaints from interlocutors in Bara, Parsa, Rupandehi, Morang, and many other districts, with children of recently naturalized citizens seen as most affected. Citizens in Parsa told observers that their social and economic status had not really changed, that they were still struggling to get citizenship, and that they were still being discriminated against by government bureaucrats and administrators. Many interlocutors in Parsa, including Madhesi party representatives, said there was still a lot more to achieve in real terms compared to what the Madhes Andolan had promised to Madhesi citizens.

Identity-based activists often complained that identity-based organizations lacked influence in comparison to mainstream national political parties.

Political parties – including Madhesi parties – remain stronger and more active on a range of local issues than other identity-based organizations. Observers found that affiliation to an ethnic or caste group is important to many Nepalis but that political parties have retained their position in most districts as the most influential organizations. As one citizen noted in Arghakhanchi: "People have to be in some party; they need support from some party whenever they have a problem."

[57] In early to mid-2011 many different Madhesi organizations – supported by political parties – obstructed the voter registration process due to complaints regarding requirements for citizenship. These disputes were eventually resolved on a district-by-district basis by the Election Commission. The four-point deal between the UCPN(M) and the United Democratic Madhesi Front, which resulted in the inclusion of five Madhesi parties in the government coalition, also contributed to a more conducive atmosphere which facilitated the reopening of voter registration. For more see The Carter Center, "Third Interim Statement on the Election Commission of Nepal's 'Voter Register with Photograph' Program," Jan. 31, 2012. http://www.cartercenter.org/countries/nepal-peace.html

This was particularly true in local development bodies, which control government spending, where political parties also retained their dominance over identity-based organizations. In nearly every district visited, organization representatives complained that political parties blocked their access to development funds allocated to marginalized communities through the Indigenous Nationalities Coordination Committee of the District Development Committee.[58] In Lalitpur, a representative of the UCPN(M)'s Tamang sister wing said "Janajati participation in local development has improved, but remains unsatisfactory, for example in meetings and mechanisms. The reality is that you will only have full participation when [the Janajati group in question] has power and positions; since this is lacking for most Janajatis, they remain in a difficult situation."[59]

Only in a small number of districts, such as Udayapur and Ilam, was NEFIN viewed as serious challenge to the decision-making power of political parties on the Indigenous Nationalities Coordination Committee. In these districts, NEFIN representatives claimed that their relative success had come about through heavy pressure on political party representatives. In Udayapur, these tactics allegedly included padlocking politicians inside the District Development Committee building until they agreed to NEFIN budget demands.

That said, identity-based organizations have begun to challenge major political party dominance on the issue of federalism, notably in the Eastern and Far Western regions.

The two largest Limbuwan factions (FLSC and FDNF affiliated FLSC) have sought greater political representation and broader support across the far Eastern hills, where Limbus are the largest community. For instance, the FDNF affiliated FLSC district committee in Taplejung contains Brahmin, Chhetri and Newar members. In districts where they are active, the FDNF affiliated FLSC generally gained representation in local governance bodies after it became an official political party affiliated to the Federal Democratic National Forum for the 2008 Constituent Assembly elections. In Far Eastern hill districts such as Taplejung, the FLSC also had a seat in District Development Committee meetings and on the district All Party Mechanism, as they were a recognized regional political party in the Eastern region under the Interim Constitution.[60]

Political parties appeared to have also faced internal challenges over mobilizations around federalism and identity, as they were seen to be dragging their feet over these issues. Indeed, some political leaders from major political parties were seen to informally lend support to movements with competing agendas such as the Tharuhat movement and the Undivided Far West. As a result, several Tharu identity-based groups became more powerful, notably those inside the Joint Tharu Struggle Committee (JTSC), such as TASC, TTPN, the Tharu Welfare Society, as well the Far West Awareness Forum inside the UFW movement. The JTSC benefited from an ability to unite Tharu leaders from across political parties, NGOs and other civil society organizations including Dilli Chaudhari as the former chairman of BASE, whereas prominent Pahadi political leaders from the

[58] In 2006, new procedures were introduced which stated that 35 per cent of the overall DDC and Village Development Committee (Village Development Committees) budget in each district should be allocated specifically for the benefit of marginalized sections of the population. Prior to the dissolution of All-Party Mechanisms (APMs) in January 2012, the DDC-based Coordination Committees, formed to manage funds for marginalized communities, made proposals to the APM, which then allocated funds through the DDC or Village Development Committees Councils. One such committee is the Indigenous Nationalities Coordination Committee (INCC), chaired by the district Local Development Officer (LDO). The INCC typically includes representatives from major political parties, NEFIN, and NGOs. The Deputy Chair is appointed by the Ministry of Local Development. The Carter Center has drafted a brief on the topic: 'Identity-Based Organizations' Access to Local Development Funds: Observations from the Eastern Region' in July 2012. This can be shared upon request.
[59] It should be noted that such opinions reflect sentiment expressed by interlocutors from Janajati-Adivasi organizations and The Carter Center cannot assess the accuracy of these claims.
[60] Several interlocutors from the FLSC in Taplejung, however, complained the party lacked the same influence as mainstream political parties, especially in Village Development Committee level decision making over appointments in schools and other local development activities.

region were seen to support and coordinate the Undivided Far West Movement from behind the scenes. For more details, see the specific section on developments of 2012 below.

Some politically affiliated identity-based organizations that had projected a militant image in the past made efforts before April/May 2012 to reduce aggressive tactics, present a more moderate public profile and reassure other communities about their respective political agenda.

Observers found evidence that some identity-based organizations had taken steps to improve their public image and broaden their support base. This is particularly the case for those that have political affiliations to a party or have their own political ambitions including identity-based actors who have sought or seek to stand for elections. For example, TASC in the Mid Western region had previously carried out extortion activities in the name of implementing ILO 169; however, by late 2011 observers found that extortion by Tharu groups had declined in districts such as Bardiya, Dang and Banke. Furthermore, there was no evidence of TASC forced donation drives in Kailali or Kanchanpur in 2011 where Carter Center observers had noted such instances in 2009.

In Eastern Nepal, allegations of criminal activities – such as forced donation and extortion – of IBO affiliated youth wings such as the Limbuwan Volunteers (LVs), were also seen as having largely declined from 2009 and 2010, when observers heard of widespread complaints about the group. This was seen as being due to both factions of the main Limbuwan groups (FLSC and FDNF affiliated FLSC) seeking political respectability and broader electoral support for the future, particularly after the FLSC led by Lingden became an official political party affiliated with the Federal Democratic National Forum. That said, the majority of interlocutors interviewed across Nepal said that while groups such as the LVs, Madhesi youth wings and others had moderated their tactics they were still perceived as providing "muscle power" for their respective affiliated group at the time.[61]

In the period under review, the majority of identity group discontent was largely directed towards the central government and administration rather than towards other communities; however, this dynamic changed in some places during the protests in April/May 2012.

Many identity-based organizations across Nepal largely focused their demands on the local administration and central government in Kathmandu rather than in opposition to other communities. This ranged from demands for a federal state to demands for access to state resources and greater representation on District Development Committees and associated bodies, which allocate local development budgets. Observers found examples of this in Kanchanpur, Dang, Okhaldhunga, Siraha, the Kathmandu Valley and Arghakhanchi. For example, in Dang during late 2011, observers found that NEFIN and TASC had a specific list of demands including: greater representation inside the District Development Committee; be provided with 15 per cent of total budget for indigenous peoples to be controlled by NEFIN; implementation of ILO 169 by the government; and that NEFIN should have a seat on the District Development Committee board.[62] Furthermore, in Siraha during early 2012, NEFIN and civil society representatives told observers that different identity groups supported others in their activities and demands which were focused on obtaining more power from the central government.

[61] Political party youth wings – such as the Youth Communist League (affiliated with UCPN[M]), Youth Force (affiliated with CPN-UML, and subsequently renamed Youth Association Nepal), Tarun Dal (affiliated with NC) – have frequently been accused of being used to intimidate political rivals, extortion and manipulate tender process for development works contractors and so forth on behalf of their political leadership. Many new political parties have adopted this model and formed their own youth wings for this very purpose. For more on political party youth wings see The Carter Center, "Political Party Youth Wings in Nepal", February 2011. http://www.cartercenter.org/countries/nepal-peace.html

[62] Observers visiting Newari groups in the Kathmandu Valley met representatives of the Nepal Bhasa Manka Kala, an IBO with one core agenda: namely that the State should recognize Newari as an official language, and that Newars should have the freedom to speak and write in Newari.

However, as noted in the following section and annex, observers were informed of localized tension in Kanchanpur, Kaski, Kailali, Nawalparasi and Morang (amongst other districts) as the Constituent Assembly deadline approached. In these places, communal anger was found to be directed against other ethnic or caste groups as well as the Kathmandu political establishment, as divergent federal demands by different identity groups were increasingly viewed as zero-sum games during the protests.

B. Debates and Negotiations on Federalism

Observers did not find much evidence of discussions on federalism between groups holding differing views, especially regarding boundaries, protections for minority groups, and autonomous zones, within future states.

This is a pertinent issue as most districts in Nepal do not have a clear majority of one community and are heterogeneous in terms of caste and ethnic groups; the federal future of mixed districts claimed by multiple identity-based organizations is also unclear. However, even though districts such as Kailali and Kanchanpur, Sunsari, Syangja, Chitwan, Sankhuwasabha or Solukhumbu are subject to overlapping claims by multiple identity-based organizations to be part of their prospective federal states, observers found little evidence of discussions between groups about how to address their conflicting claims.

Observers were also told of fears from ethnic groups who were minorities in districts and felt excluded from dialogue on the proposed boundaries of a future federal state. In Udayapur, Tharu Welfare Society representatives were concerned about the lack of political dialogue involving them and between different identity-based organizations on the boundaries of proposed states. The Tharu Welfare Society representatives stated that they had submitted a plan for a proposed Eastern Tharu State (incorporating all of Saptari, parts of Siraha, Sunsari and 7 southern Village Development Committees plus half the district headquarters of Udayapur) to the Constituent Assembly's state restructuring committee. However, locally they had not been able to engage other groups in a discussion on the boundaries.

In November 2012, observers in Nepalgunj were told that while the situation in Banke was at that point calm, relations between different groups and identity-based organizations could not be described as amicable. Rather, the situation was characterized by an absence of any activity, a scenario which could rapidly change once political stakes are raised. Interviewees also showed concern that in the absence of any dialogue an opportunity was missed to resolve outstanding issues between different groups with regards to competing federal claims during this current low-stakes environment.

Observers found isolated examples of some groups in the Eastern Hills conducting outreach efforts to other communities, which emphasized that proposed federal states would be inclusive and non-discriminatory.

In Taplejung, Ilam and Jhapa, observers found members of other communities, including Brahmins and Chhetris on committees of Limbuwan groups. Furthermore, observers were informed that both factions of the FLSC in Taplejung made efforts in September 2011 to reassure people publicly that a Limbuwan state would not only be for Limbus and stressed their commitment to protecting the security of non-Limbus in a future Limbuwan state (including Brahmins and Chhetris). FLSC district level representatives also said "we are committed to supporting Brahmins and Chhetris… We do not create discomfort for them."[63] FNJ representatives in Taplejung reported FLSC leader Sanjuhang Palungwa's comments that he wanted a future Limbuwan state to be 'a multi-colored state', which included all communities. Most interlocutors from major political parties, as well as identity-based

[63] The Carter Center teams observed this message being articulated during public programs of FDNF affiliated FLSC in several districts of the Eastern region in December 2012.

organizations, emphasized that they felt assured a future Limbuwan state would be inclusive and "for everyone". However, it remained unclear how well this view had been articulated to the wider public in the district headquarter and Village Development Committees. Indeed, while these efforts by both factions of the FLSC are commendable, observers have found that such explicit assurances to other communities have largely been limited to Limbuwan groups in the East.

V. IDENTITY-BASED MOBILIZATIONS, APRIL/MAY 2012

As detailed above, identity-based organizations have been conducting activities throughout the constitution drafting process including the period under review. Most of these activities, including protest programs and strikes, have been largely peaceful, and have not garnered much national-level attention. However, identity-based activism has spiked at moments when there has been a major national event to react to – such as when a decision is made, or appears imminent, that could produce perceived (or actual) winners and losers. In the period under review, this has been observed as the constitution- drafting deadline in May 27, 2012, approached.

This section highlights trends regarding activities and impact of identity-based mobilizations in the buildup to the dissolution of the Constituent Assembly, the various agreements and decisions taken in April/May 2012, as well as measures taken to reduce tension. Those trends which differ from those found during the period under review are noted where relevant. This section also discusses tensions between mainstream political parties and their ethnic sister wings and where relevant points to the continuing impact of these trends after the Constituent Assembly dissolution. The effect of protests on communal relations at this time is discussed in subsequent section. It should be noted that while polarizations did occur between Janajati-Adivasi groups on one side, and Brahmin/Chhetri organizations on the other, this was not the only fault-line observed. Indeed, these tensions were also informed by the role of Maoist party cadres and particularly regional unity groups – particularly the Undivided Far West movement. Furthermore, many parts of the country, notably rural areas, remained free of these tensions.

A. Shifts in Identity-Based Mobilizations around 2012 Constitutional Deadline

A strong "now or never" mindset among many identity activists was noted in the run-up to the 2012 constitution drafting deadline.

The Carter Center observers reported a sense among many identity-based activists that the 2012 Constituent Assembly deadline represented a last chance to realize their ambitions, whether in favor of or against ethnic-based federalism or in terms of names and number of federal states. INSEC representatives in Nawalparasi said all groups view this period as "the real struggle for their identity", believing that "if they don't do anything now, they won't get anything in the new constitution". In this atmosphere of high stakes, previously faction-ridden movements united, activists resorted to unusually strong enforcement of *bandhs* or opposed them equally strongly, and rhetoric against the government and other communities increased. As mentioned above, the May 2012 deadline, therefore, provided the context for protests throughout the country, in particular by NEFIN and other Adivasi-Janajati organizations through the Indigenous Nationalities Joint Struggle Committee (INJSC). It also provided the impetus for the newly formed National Integrity and Ethnic Goodwill Joint Struggle Committee (NIEG) to begin greater mobilization and organizational expansion throughout the country.[64]

Prior to the May 27 deadline, tensions were highest in "contested" geographic areas where multiple identity groups were strong enough to launch competing claims.

For example, both Kailali and Kaski districts were areas that were strongly contested by different identity groups (in Kailali, the Undivided Far Western Citizen Movement Mobilization Committee and the Joint Tharu Struggle Committee launched competing protest programs, and in Kaski, an alliance of Janajati groups and the Brahmin Samaj and Chhetri Samaj Nepal organized public

[64] Such committees to coordinate protests against ethnic federalism were formed, amongst others, in Kaski, Rupandehi and Nawalparasi. For example, The Carter Center observers visiting the Far West in the second half of 2012 reported that the FWAF appears to be largely limited to districts of the Mahakali zone (e.g. Baitadi, Darchula, Dadheldura and Kanchanpur), with observers finding little evidence of the presence of the organization in other districts of the region.

demonstrations to oppose the others' political demands). By contrast, although Limbu areas in the Eastern Region have seen high levels of identity-based organization and activity by Limbuwan groups, these areas were relatively quiet in the lead-up to May 27. As mentioned, some interlocutors suggested the calm was explained by the confidence of Limbuwan groups in their strength, and the relative absence of equally strong groups that could challenge their position.

Identity-based mobilization escalated rapidly, even in areas where it seemed unexpected.

Carter Center observers in both the Western and Far Western Regions noted that they were surprised by how quickly and how strongly identity-based mobilization occurred in certain parts of their regions. This was not necessarily a reflection of strong citizen opinions on state restructuring prior to mobilization. For example, in Kaski district previous observation indicated that many citizens were not particularly interested in federalism, or were unaware of it entirely, and did not have strong opinions on state restructuring. Nonetheless, both Adivasi-Janajati and Brahmin/Chhetri groups mobilized very quickly in Pokhara in the lead-up to the May 27 deadline, bringing large numbers of people on the streets. A similar dynamic was observed in Nawalparasi, where on a previous Carter Center observation visit many Brahmins said they were not aware of the Brahmin Samaj's presence in the district, yet clashes between Tharu activists and Brahmin activists escalated rapidly.

In some cases, rapid mobilization was facilitated through the use of previously existing structures. For example, in Tharu areas, the network of traditional Badghar or Bhalmansa village leaders was reportedly used to mobilize citizens to participate in rallies and protests.[65] For their part, observers were informed by interlocutors in the Far Western Region that Undivided Far West activists tapped into pre-existing political party networks to identify and mobilize supporters to join their protest programs.

Polarization between pro-federalism Janajati-Adivasi groups (and in some cases UCPN[M]) on one side, and Brahmin/Chhetri or "regional unity" groups on the other, led to tensions in many districts and, in some districts, violent clashes.

Across most of the country – including the Eastern, Western, and Far Western Regions – long-term observers reported some levels of increased polarization between Janajati-Adivasi organizations and Brahmin and Chhetri organizations as well as the Undivided Far West Movement during April/May 2012. This division could also be understood as a polarization between groups advocating in favor of ethnic or identity-based federalism (such as Janajati-Adivasi groups) and those advocating against these models (i.e. Brahmin/Chhetri, other organizations of so-called upper castes, as well as regional leaders who argue, particularly in the case of the Far West, that their region has a distinct historical identity). Although these are broad groupings with internal differences, they were nevertheless able to unite together against each other. As noted in the annex, some urban areas in Kailali, Kanchanpur, Kaski and Nawalparasi saw particularly tense or violent incidents of polarization related to federalism.

It is important to remember that many rural areas or small towns in the same districts remained free from any clashes, tension or polarization. However, this polarization was not a specifically local phenomenon but was reflected nationwide, as Adivasi-Janajati activists in one part of the country

[65] The Badghar (sometimes also called Bhalmansa or Mahatawa) system is a traditional mechanism to settle individual and social issues in the Tharu community of the Tarai. It is prevalent and practiced even today, although heavily affected and challenged by the decade long conflict. The Badghars are selected or, at times, elected by the community for a year to work as village headmen, mediate conflicts, mobilize villagers for communal works, and hold discussion among villagers to decide on important community issues. Under the stewardship of prominent Tharu civil society leader Dilli Chaudhary, an umbrella organization of Badghars of different Tarai districts called "Bhalmansa, Badghar, Mahatawa Federation" was also formed in recent years. The organization demands an official recognition of the position of the Badghar by local bodies.

demonstrated solidarity with those elsewhere.[66] Moreover, in districts such as Kailali and Rupandehi, Carter Center observers had been told that people from rural areas in those districts had actively participated in protest programs in its urban centers.

Polarization between Adivasi-Janajati organizations and Brahmin/Chhetri organizations as well as regional unity movements was also seen in efforts to compete in organizing stronger *bandhs* than each other. A NEFIN representative in Ilam told observers "we are trying to make our *bandh* stronger than the Brahmin/Chhetri *bandh*". Observers visiting Rolpa after the Constituent Assembly deadline were also told that there was a "competitive" feeling to the enforcement of the NEFIN *bandh* following one called by NIEG. This meant a desire to implement the program at least as strictly as the preceding NIEG *bandh*. Furthermore, in Nawalparasi, an initial scuffle during a *bandh* called by the Joint Tharuhat Struggle Committee on May 8, 2012 quickly escalated when supporters of the united struggle committee (of Brahmin, Chettri, Thakuri, Dasnami and Dalits) were stopped on their way to a mass-gathering in Butwal. The group retaliated against Tharu demonstrators by vandalizing a Tharu museum in Danda Bazaar. Subsequent protests by Tharu youths in Kawasoti led to clashes between both groups and police fired live rounds and rubber bullets at JTSC activists, leaving 13 of them injured (four of them seriously, one of whom later died in June, sparking further protests).[67]

In Kailali the situation grew tense on May 11, 2012, with the police beating of Tharu activists, including prominent Tharuhat leader Laxman Tharu inside the premises of the Seti hospital in Dhangadhi. Police attitude that day and over the course of the protests had also led to serious allegation of bias of the district administration and police with even home minister Bijaya Gachhedar denouncing the actions of the Superintendent of Police and subsequently transferring him to another post.

An interesting aspect to tensions found in April/May in the Far West was the role which Maoist cadres played in the protests. For instance, The Carter Center observers in Kailali noted the prominence of the UCPN(M) within JTSC demonstrations.[68] Slogans at UFW protests, in turn, took an increasingly anti-Prachanda (Maoist chairman) tone (rather than simply opposing the Tharuhat or Tharuwan State demand).

Groups protesting about ethnic based federalism, however, were not the only ones who clashed in the build-up to the Constituent Assembly deadline.

In some districts, federalism discussions and the increased activities of many identity groups before the May 27, 2012 constitution deadline led to clashes between other opposing groups. Observers visiting Kapilvastu in June 2012 found that federalism discussions had worsened historic communal tensions in some areas of the district. In Taulihawa, for example, protest programs led to clashes between Tharus and Madhesi during a Tharu *bandh* in May 2012. Local Muslims also tried to break the Tharu *bandh*, leading to further tensions. However, several interlocutors stressed that there had not been serious problems regarding the issue of federalism and efforts by the police and civil society groups (see below) contained the tension to a few urban areas.

Furthermore, in many other districts federalism-related activities did not lead to clashes between groups holding different ideas on the type of federalism in their area. In Sunsari, for example, observers visiting in July 2012 were told that the majority of active identity groups supported federalism. Parts or the entire district were claimed for proposed Madhesi, Tharu, Kochila, Limbu, and Khumbu, giving the potential for high competition and disputes. Reportedly tensions were high between Rais and Limbus in Dharan before the Constituent Assembly deadline. However, despite the

[66] For example, Carter Center observers heard slogans against anti-ethnic-federalists of other regions, such as the Undivided Far West Movement, during a NEFIN-organized protest in May 2012 in Ilam Bazaar.
[67] For more details, see 'Four Hurt in Nawalparasi Police Firing,' *The Himalayan Times,* May 10, 2012
[68] This reportedly followed allegations that Prachanda advised NEFIN to resort to street protests to counter anti-ethnic federalist agitations.

range of federal claims on the district, violence did not take place in the run-up to the constitution-drafting deadline of May 27, 2012.

B. Relations between Identity-Based Actors in April/May 2012 and Aftermath

Observers reported isolated examples of a growing "us and them" feeling mainly between activists of different caste and ethnic groups, but to some extent also between citizens. This was linked to federalism debates and existed even in areas where communal relations are otherwise described as 'harmonious'.

Despite the relative lack of violence related to federalism in many districts observers across Nepal reported an increased feeling of separation between Janajati and Brahmin/Chhetri communities in the buildup and aftermath of the Constituent Assembly deadline. Observers in the Western Region visiting Kaski in June 2012 reported on increasing polarization between different communities as citizens began to discuss concerns about federalism more openly. In Kapilvastu a Tharu Welfare Society representative told observers "they (Brahmin Samaj/Chhetri Samaj) are putting forward their demands to the government and we are doing the same. So we do not have a problem here. However, the gap between two individuals from these two communities has been widening."

Increasingly aggressive rhetoric between Janajatis and Brahmin/Chhetris was also seen in the Eastern Region leading to hardening positions. In Sankhuwasabha, the NEFIN district president told observers that during a NEFIN *bandh* and protest rallies before May 27, 2012, some people shouted inflammatory slogans such as "Janajati hi hi, Bahun-Chhetri bye bye" although this was widely condemned by NEFIN representatives.[69]

Observers reported negative perceptions by Janajatis regarding the role of police and media, as well as civil society sponsored "goodwill rallies" during April/May protests and a perception in some quarters that donor-funded NGOs and INGOs promoted identity activism in Nepal.

In a number of districts across the country, Carter Center observers heard allegations that the police, media or civil society organizations were biased against Janajatis. This is not a new perception; it has been reported previously to observers. Examples given included a perception that police were "protecting" a signboard in favor of an Undivided Western Region in Kaski. Another example was a reported police attack on Tharu activists in Kailali district (see above). Additionally, in several districts, ethnic activists complained that media were not reporting on "Janajati issues" or were emphasizing negative aspects of pro-ethnic federalism protests. In some areas, local interlocutors reported that the ability of civil society leaders and NGOs to help prevent and calm tensions in April May 2012 was reduced by their real or perceived support of one side or another.[70]

There was also a widespread perception by Janajati groups that civil society-sponsored "goodwill rallies" which took place around the country were in practice "anti-ethnic federalism" rallies, and that

[69] The use of inflammatory language during protests was also reported to observers in Kaski, Kailali, Kanchanpur, and Nawalparasi, amongst others.

[70] In Kailali district the FNCCI office reportedly hosted meetings of UFW leaders. At the same time, media representatives were seemingly targeted during some *bandhs*, including the NEFIN bandh in Kathmandu. Journalists in Chitwan and Makwanpur reported feeling more fearful during the NEFIN *bandh* than during previous protest programs. In Nawalparasi and Rupandehi problems between the media and *bandh* enforcers were reported. In Jhapa, *bandh* enforcers reportedly vandalized media vehicles. Observers during a visit in Kanchanpur in late 2012 noted that Janajati activists had setup an Adivasi Janajati United Media Society with the aim to run their own radio station, which would provide a space for raising janajati concerns, although also reporting on other issues in a balanced fashion. The impetus for this, they said had come during April/May demonstrations as they found that their issues and news of their protest programs had either been ignored or misrepresented by the existing local media.

the calls for goodwill were more directed at ethnic activists than at Brahmin/Chhetri activists. Observers reported this feeling in Kathmandu, Pokhara and other locations such as Tansen, Palpa.[71]

In the wake of the April/May protests, The Carter Center observers across Nepal have also heard criticism of, rumors about, and allegations of bias directed toward the international community and donor-funded NGOs and INGOs. Although some of this skepticism has come from Adivasi-Janajati activists in certain regions, the most serious and widespread allegations have come from opponents of ethnic federalism, who have accused the international community and its Nepali partners of discrimination against Brahmins and Chhetris (such as in hiring practices) and of promoting identity activism through support of "ethnic" NGOs and inclusion programming.

C. Measures Taken To Reduce Conflict at Local-Level

Close coordination between Chief District Officers, civil society actors, police, government and others appears to have helped prevent escalations of tension in some districts. However, the long-term efficacy of these initiatives, and their applicability to other contexts throughout the country, remains unclear.

Given the nature of clashes which occurred and the stark pro- and anti-federalism divisions in several areas of Nepal, many observers expected conflict to escalate further. Furthermore, many interlocutors across Nepal said that the dissolution of the Constituent Assembly by and large immediately brought an end to many identity-based mobilizations. While this was critical in helping to end localized conflict, steps had also been taken by government representatives, civil society groups, political parties and the police to diffuse tension while also allowing communities the right to protest freely. This occurred despite the lack of neutral institutions in many districts. Most of the sites were urban, district headquarters, with Village Development Committees and rural areas remaining largely peaceful.

Chief District Officers in districts such as Kanchanpur, Kaski, Ilam, Banke, and Chitwan called protesting groups together to negotiate "open periods" in the bazaar, to sign codes of conduct, and to ensure that competing groups were not scheduling programs for the same time and location. Observers in Ilam reported on a security meeting that the Chief District Officers called in the run up to the Constituent Assembly deadline. The Chief District Officers invited groups that had announced *bandhs* as well as security personnel, journalists and other NGOs. The purpose of the meeting was to discuss how to avoid communal tensions and ensure continued supplies during *bandhs*. Reportedly all groups agreed to hold only peaceful protests, to take action against violent cadres, and to allow the bazaar to open for fixed hours. In Banke the Chief District Officers convened a meeting with various stakeholders (religious leaders, civil society, journalists) on May 10 to stress the importance of maintaining social harmony, ahead of planned protests, in the district.

Local civil society – with the support of the police and district administration officials – reportedly took a positive role in areas such as Banke, Dang, Kapilvastu, Kanchanpur and Kailali in coordinating various actions to prevent communities from clashing. For instance, observers in June 2012 were informed that local civil society groups with the support of Pahadi and Tharu communities initiated a meeting in Dang on May 17 aimed at reducing the possibility of clashes between the NIEG and Tharu groups. The meeting resulted in a code of conduct, by which Pahadi – and specifically Brahmin/Chhetri groups – would conduct their programs at the Village Development Committee level, while the JTSC would protest in cities and towns and each group would avoid conflicting routes. In Kapilvastu observers found considerable mediation efforts – including meetings and dialogue between competing groups – were made to avoid historic tensions from reappearing of which the police took significant credit in diffusing crowd tensions. Although these local level

[71] This dynamic is also not new, and was reported previously to observers at a "Pokhara Peace and Goodwill Rally" in May 2010.

initiatives to encourage dialogue between identity-based activists are positive local level efforts to mediate and militate against further conflict, their long-term efficacy and suitability in other districts is uncertain.

VI. IDENTITY POLITICS AND COMMUNAL RELATIONS

Mobilizations related to the federalism debate have led to tensions in some regions, especially in April/May 2012, as described in previous sections. However, these tensions were mostly between identity-based actors engaged in political activities and rarely between ordinary citizens. Throughout 2011-12, observers reported only few isolated incidences of communal tensions or violence. Most instances related to ongoing discrimination against Dalits. Debates on such discrimination are directly linked to those on inclusion and state restructuring – as advocated by Dalit activists and the State Restructuring Commission paper which proposed a "non-territorial" Dalit state – although the link between federalism and ending discrimination was not made clear to observers at the local level.[72]

Some identity-based actors as well as citizens voiced resentments against other communities and many raised fears that debates and activities related to federalism would have a negative impact on relations between communities and invite tensions in the future. These fears seemed to have increased after the mobilizations in April/May 2012, particularly among citizens. Yet, little evidence was found that recent identity-based organization activities have led to worsening communal relations.

Most districts were reported to be largely free of communal tension prior to April/May 2012, and remained so after, although concerns about the possibility of worsening relations were consistently raised and appear to have increased in the wake of the protests.

Observers found few incidents of widespread communal tension were reported prior to April/May 2012, but many interviewees were concerned that tension could arise over major political deadlines and agreements. Most interlocutors linked this possibility to the outcome of any decisions made on federalism at the national level. Such responses were heard from citizens and leaders representing a diverse range of identity-based organizations and political parties throughout all districts in Nepal including: Baitadi, Surket, Lamjung, Nawalparasi, Makwanpur, Dhanusa, Bhaktapur, Okhaldhunga, Jhapa, and Taplejung. In the Eastern region, where awareness about identity politics and federalism was generally observed to be higher than in other parts of the country, some interlocutors also feared that disagreements about priority rights and reservations might cause tensions between communities once federal restructuring will take place.

Occasionally local issues flared up causing small-scale incidents of isolated communal tension. Observers were told of cases of small disputes in several districts. For example, in a Village Development Committee in northern Ilam district in mid-2011, a difference in cultural practices over a cremation led to an element of communal tension between local Magars and Brahmins, which was eventually resolved following mediation. In southern Dhanusa observers were told about a clash between Hindu and Muslim youths that had taken place in late 2011; however, this isolated incident appears to have not been related to the question of federalism. Some interlocutors in the district, however, reported a widening social gap between Hindu and Muslim groups, with one local journalist attributing this to several longer-term structural factors such as relatively recent migrants to the district trying to create a space for themselves and a hardening of religious boundaries during labor migration to India and the gulf.

Additionally, historic communal divisions remained present and sensitive in a small number of districts which had previously suffered from communal tensions or violence. For example, in Kapilvastu district where communal divisions between Hindu and Muslim groups have remained since sectarian rioting in 2007 as well as problems faced between Pahadi and Madhesi communities. That said, in the vast majority of districts visited identity-based group activity appears to have had

[72] Although the matter of inclusion appears to be equally significant to Dalit activists as much as the idea of federalism, the relationship between the two is unclear. Also see 'Non-territorial Province comes under Dalit Fire,' *The Himalayan Times,* Feb. 5, 2012; and 'Federalism doesn't make qualitative difference to Dalits,' *The Kathmandu Post*, July 8, 2012.

limited impact on communal relations so far, both in districts where identity debates have been heated in the past and those in which they have not.

When incidents of communal tensions were reported, the most frequent examples related to ongoing discrimination against Dalits.

Although fears about communal tensions at the national level were generally focused on relations between caste and ethnic groups, Carter Center observers reported that when they did hear of communal incidents, these were most often related to discrimination against Dalits. It was clear that discrimination against Dalits by non-Dalits has persisted in both urban and rural areas of Nepal and was raised by interlocutors in districts such as Dhanusa, Kailali, Lamjung, Chitwan, Arghakhanchi, Accham, and Baitadi. This was usually reported to observers as discrimination by Brahmins and other so-called upper caste groups against Dalits, but it also involved discrimination by other ethnic groups.[73] However, interlocutors did not inform observers how such discrimination would be necessarily resolved by Nepal adopting federalism in a new constitution.

Other areas of communal sensitivities – which have fed into debates on federalism – also included localized resentment against Brahmin dominance and anti-Brahminism feelings. Observers have noted this has led to a backlash of political activity from high-caste groups in some districts.

Across Nepal observers found a range of other communal sensitivities which were not linked to federalism – often very localized – but had the potential to cause communal tension. Members of identity-based organizations occasionally expressed strong resentment against Brahmin dominance.[74] Long-term observers also found evidence of increasing frustration among some high caste Hindus regarding perceived lack of attention of the government for their concerns. Observers visiting Arghakhanchi heard concerns from high caste Hindus that more attention in government policies is being paid to Dalits and Muslims than to their own community, an issue that is creating tensions. A high caste member of Khas Chhetri Ekta Samaj (a Chhetri identity-based organization) said "we are not classified as indigenous and do not receive reservations and quotas so we are discriminated against by the state. In reality however, we are much worse off than Tharus...52 percent of our people live below the poverty line." Similar statements were also heard by observers in the Far Western region, where various Chhetri and Brahmin organizations continued to argue in favor of quotas based on economic markers rather than those on communal basis and instead supporting quotas on the basis of the Human Development Index or other similar economic measuring systems with the argument that affirmative action along ethnic and caste lines would in fact constitute discrimination and is likely to invite further conflict

[73] For example, in Kaski in late 2011 a dispute arose between Dalits and Gurungs over a Dalit's supposed "untouchable" status in the preparation of food during a celebration. A local Dalit leader questioned such discriminatory practices. He insisted that Dalits should be involved in the preparation of food to celebrate the completion of a tap installation project and went on to organize protest programs in Pokhara to raise awareness about discrimination against Dalits. The incident reportedly involved the public humiliation and punishment of this leader. In another example, it was reported to observers visiting Baitadi that communal tensions flared up in late 2011 between upper caste individuals and Dalits during Dashain concerning the question of Dalits' consumption of sacrificed animals. For more on caste-based discrimination in Nepal please see http://nepal.ohchr.org/en/index.html.

[74] Many members of identity-based organizations in Udayapur, for instance, expressed strong feelings against the dominance of Brahmins and especially against Brahminism. An older Rai woman leader from Kirat Rai Yayoka told observers that 'the NC removed the Ranas by use of arms, the Maoists removed the Shahs by use of arms, now Janajatis will remove Bahunbad (Brahminism) by use of arms'. Members of the Khumbuwan Rastriya Morcha, an identity-based organization pushing for a Khumbuwan state, in Udayapur were against Brahmin dominance and the imposition of Hindu religion, especially the ban on slaughtering cows. One member told observers that 'Bahun dominance will be challenged…because now we are more aware of our rights.'

Despite communal relations being largely peaceful, many interlocutors raised concerns that underlying tensions arising from perceived histories of domination and marginalization existed particularly between Pahadi, Madhesi, and Tharu communities in the Tarai.

Tensions between Tharus and Pahadis or Tharus and Madhesis were reported in districts such as Nawalparasi, Udayapur, Dhanusha, Chitwan, and Kailali, even though few incidences of overt tensions or violence between communities were reported. In Dhanusha, for example, people from all communities still remembered that a significant number of Pahadis were displaced during the Madhes Andolan. The situation was reportedly calm in late 2011 and some of those displaced had reportedly returned. Nevertheless, a local journalist said that "mutual distrust between Pahadis and Madhesis is still there at the back of people's minds, not openly, but it is there."

Similar feelings of resentment of domination and exclusion also existed in hill and mountain districts – as becomes evident through identity politics of Janajati groups – but were mostly directed against the state rather than other communities throughout late 2011 and early 2012. In Kaski, for instance, various interlocutors reported underlying communal tensions as groups such as Brahmins, Chhetris, Dalits, and Janajatis complained about a perceived lack of rights and access to resources compared to other groups. "From the outside, everything seems fine but in some forums and speeches there is an indication that something is wrong and bitterness between communities comes out," said a local member of CPN-UML.[75]

[75] In the Kathmandu Valley, Newars and Tamangs raised concerns about historic discrimination and marginalization at the hands of the State. Newari activists and journalists who met with observers resented the historic repression of their language while Tamang activists said they demanded a federal Tamsaling State to redress the discrimination of Tamangs by the Nepali State.

VII. CITIZENS' VIEWS ON IDENTITY-BASED ORGANIZATIONS & FEDERALISM

Throughout the period under review, Carter Center observers have also interviewed citizens on their perception on various issues observed. This final section highlights the views of citizens about identity-based organization activity and understanding of term federalism. Where possible, the community of citizens who offered their views has been identified to demonstrate the breadth of opinion amongst Nepal's diverse and heterogeneous population. In general, The Carter Center observers have found that identity-based organization activity has had a limited impact in increasing awareness of federalism or outlining the positions – including support for ethnic, identity, geographic models – which respective groups have on federalism. Observers note that understanding of the term remains relatively low, while identity-based organization activity appears to have limited impact increasing awareness of federalism. The absence of education on the term, coupled with localized violence found during the April/May protests, has fueled uncertainty amongst some citizens about what may or may not happen when discussions on federalism and constitution drafting process resume.

A. Identity-Based Organizations

In most districts, citizens' awareness of identity-based organizations is generally very low, especially outside district headquarters, although observers have found examples of increased awareness after recent protests. Awareness appeared to be relatively higher among citizens in many Eastern region hill districts.

Observers found that general citizen awareness[76] of identity-based organizations and their agenda other than federalism, was limited. This included limited knowledge of activities and agendas amongst citizens even from the same identity group. That said, there is evidence that awareness of such activities has increased after protests in April/May 2012. Citizens in many districts, such as Kaski, Kavrepalanchowk, and districts of the Kathmandu Valley, underlined that politicians and identity-based organization leaders had not effectively communicated with the general population.[77] The one notable exception was the Eastern Region where citizens tended to be aware of groups such as the FLSC (both factions), as well as smaller Rai and Kirat groups, in districts such as Taplejung, Ilam, and Jhapa.

Citizens were generally supportive of identity-based organization cultural activity but less so of their political activities, which were sometimes viewed as divisive.

Citizens who were aware of identity-based organizations had mixed views about their activity. Many citizens supported the cultural and development activities of identity-based organizations but felt that if identity-based organizations were politicized then they would create divisive communal tensions. For example citizens in Ilam – who were more aware than those in other districts nationwide – suggested they were supportive or liked these groups primarily because of their cultural activities. "They should stick to their own things" and "should not seek domination" said an elderly Sherpa woman in one Village Development Committee. A Rai male also mentioned that while it is good that ethnic groups are organizing to uplift communities, "it is bad to organize merely on the basis of identity and that it is not good to create conflict between different ethnic groups. We are all Nepalis."

[76] The Carter Center does not conduct quantitative data collection. The views expressed in this section are based on informal interviews observers have had with citizens from a diverse range of backgrounds across the country from 2009 until 2012.
[77] In Kaski, as in other districts, observers were told that: "identity-based organizations were centralized in the district headquarters (Pokhara), with limited presence or activity at the Village Development Committee level." Observers visiting the Kathmandu Valley found that the majority of Newar and Tamang citizens interviewed were unaware of the existence or activities of any identity-based organizations, even those that claimed to represent them. In Banepa, only one out of seven interviewed, and in Panauti only one out of six interviewed, mentioned any IBO activity or showed a level of awareness.

Many citizens expressed fears about increasing 'groupism' and 'casteism' as a part of politics. In Baitadi observers found particular fears that caste-exclusive organizations would be bad for society if they took on a political role based solely on caste-exclusive policies. A Chhetri Christian in Siddheswor said "national discussion on identity politics directly impacts the local level politics. It stimulates alignments along caste lines and the popping up of caste-exclusive organizations. Ultimately, this trend will devolve into each clan of Chhetri having its own Samaj. It will invite conflict." Observers visiting Achham in March 2012 found Chhetri and Brahmin sub-caste groups to be active and they were reportedly influential in the 2008 election.

B. Identity-Based Activity and Federalism

Many citizens still have very little knowledge of federalism, despite protests around federalism ahead of the Constituent Assembly deadline in May 2012. Some districts in the Tarai appear to be a slight exception to this trend.

Carter Center observers have consistently found that many Nepalis do not know what federalism means and many who had not heard of the idea at all. Many citizens interviewed by observers had little or no understanding of federalism, and said that they were more concerned about their immediate economic needs.[78] In Banepa, a shopkeeper told observers that "we have to work for our survival and no system makes any difference." In Makwanpur two Dalit men in a Village Development Committee, after admitting to having no knowledge of federalism, said, "these matters are not our concern – we local people are the wrong people to ask, these matters must be decided at the central level."

In Rupandehi, however, Carter Center observers recently found a dramatic change both in regards to awareness and the nuance of opinion about federalism among citizens of the district, which observers attributed to the impact of April/May protests in 2012. Whereas on a visit at the beginning of April 2012, observers found that general awareness about federalism among citizens in the district was relatively low and opinions on it were limited, in November 2012 observers found that federalism had become a popular topic of discussion at the local level. Similar dynamics were also reported by observers visiting Bajura and Gorkha, although understanding of the term was not found to have increased in most districts visited.

Citizens who had heard of federalism were divided in their opinions on federalism. However, the vagueness of the concepts had fuelled uncertainty about ethnic-based federalism. These concerns have not been effectively addressed by the government, identity-based organizations, the media or political parties.

Many citizens, although mostly unfamiliar with federalism, were concerned about its implementation. The main fears, as noted in previous Carter Center reports on the topic, included: the deterioration of communal relations, the potential disintegration of Nepal, and concerns about being cut off from natural resources in neighboring states. With regards to ethnic-based federalism, some citizens were concerned about the potential domination of one group over others if the state's name was based on ethnicity. For example, although Taplejung has currently stable communal relations and both FLSC factions of the Limbuwan movement have made efforts to reach out beyond Limbus, several Brahmin and Chhetri interviewees talked of fears about what would happen in a future Limbuwan state. Brahmins and Chhetris were apprehensive about possible future discrimination against them. A Brahmin male in a Village Development Committee said "There have been no direct threats so far but it is a problem that people fear that tensions might erupt in the future." Similarly a concerned Chhetri male in Panauti in Kavrepalanchowk asked observers "if there is a Tamsaling state, where will the

[78] This was also the case for the Byashi/Sauka community in Darchula, who seemed unaware of the autonomous state that was proposed for them. For more details, see the UN RCHCO, "The Byashi/Sauka community and the proposed Byashi "autonomous region", Issue No 34, Field Bulletin, February 2012.

Brahmins and Chhetris go to live?" Another Chhetri man in Gorkha linked the success of federal restructuring to seasoned political stewardship, as he told an observer in November 2012, federalism had been successful in India but would not work in Nepal because "our leaders are not sufficiently competent or trustworthy."

Citizens in multiple districts repeatedly told observers that the potential for tension existed, especially if a future decision on federalism was seen to exclude some communities politically and socially. Indeed, many citizens from a wide variety of ethnic and caste backgrounds were against implementation of the term "ethnic federalism" because it was viewed as polarizing, encouraged communal domination by one group over another and would invite conflict. For example, a Magar man in a Village Development Committee in Nuwakot said "naming the state on the basis of one ethnic community would cause a negative feeling among other communities which could create tension in the future." A Newar man in Nuwakot rejected the idea of ethnic federalism on the grounds that it was not possible to give every ethnic community their own province: "some are saying Tamsaling, some Newa and some Brahmin/Chhetri, if various ethnic communities demand state in this way, how can it be possible to give them a state?"[79]

Additionally, several identity-based organizations said "mixed communities" were important for perceived economic benefits. Observers were told of regret by Madhesis in Dhanusa about the displacement of a significant section of the Pahadi population during the Madhes Andolan, which reportedly had a negative and lasting impact on local business. Limbu activists in Taplejung also highlighted the need to keep Brahmins and Chhetris as part of their community to avoid, amongst other reasons, the negative economic impact their large scale displacement could have. Furthermore, observers noted in districts such as Gorkha, Kailali, Lamjung and Kaski that following the April/May 2012 protests, interlocutors who advocated for ethnic-based federalism said they continued to favor identity or ethnic-based federalism, but were eager to stress that states would be inclusive.

Observers also heard positive views of ethnic or identity-based federalism. The reasons for this opinion usually rested on the belief it would benefit formerly marginalized communities and help preserve their identity.

For example, supporters of ethnic federalism in Palpa thought that it would benefit the Magar community. One Magar male said "we want Magarat [province] for our identity. Others can also live here. It would be like Punjab state in India where Punjabis live together with others." In Dolakha in July 2012 observers met a Sherpa male who supported identity- based federalism and believed that it would empower marginalized ethnic groups. He said "nobody should feel threatened and get panicked if a state is named after one ethnic group as it doesn't mean curtailing of rights of other caste and ethnic groups and it will not harm anybody." He also recognized that people had lots of misconceptions about federalism. A Madhesi citizen in Dhanusha felt that identity should be addressed in some way while endorsing federalism. Though not a single community had majority population in the proposed states, he thought giving recognition to the major community living there would be a good idea. He added that Madhesi had more than 90 percent population in Madhes, hence, the state should recognize their identity while endorsing federalism.

Although observers found examples of positive views on ethnic federalism, as well as federalism, this spread did not necessarily map onto a Janajati-non-Janajati, or a Madhesi-Pahadi, divide among citizens interviewed. Support for federalism was found in Sindhuli in August 2012, for example, albeit not necessarily for ethnic federalism. One male citizen noted that "there are several caste and

[79] Some citizens expressed fears about the potential disintegration of Nepal if an ethnic federal system was implemented. A Tharu male interviewed in Nawalparasi in May 2012, who had opposed a Tharu-led strike in the district, told observers "if Nepal gets divided we cannot call ourselves Nepali any longer". One male interviewed in Rolpa in July 2012 said there was "no need to divide a small country like Nepal into pieces." In Gulmi, citizens from a variety of ethnic and caste backgrounds opposed ethnic federalism and feared that such federal implementation might invite communal conflict and disintegrate the nation, a common feeling in many other districts too.

ethnic groups living in one village, so how will it work if a state is named after a particular group?" In Palpa, in July 2012 one male Magar citizen similarly told observers "federalism is good because it brings development, but ethnic federalism is not good, even though I'm a Magar, it may disrupt communal harmony." In Sunsari a young Rai man hoped for more development in a federal system "through a healthy competition between the states."

In Dadeldhura in July 2012, observers found increased support for federalism among upper caste groups, particularly around the Undivided Far West proposal, which one Chhetri citizen said would be "good for local development; we won't need to go to Kathmandu for small administrative issues." Another Chhetri male was also in favor of an Undivided Far West added: "resources will be utilized locally without being dependent on Kathmandu decisions." As an alternative, many citizens supported other, non-ethnic based, forms of federalism with many citizens suggesting naming states after geographical features such as mountains and retaining links between mountain, hill, and Tarai regions, a model that would largely follow the template of existing development regions and zones. A male interviewed in Sindhuli in August 2012 said people in his area would like "to have federalism acceptable to all communities and want a proposed federal state to comprise of mountain, hill and Tarai regions." That said, Madhesi and Tharu citizens in the Tarai who favored federalism – even if not strongly advocating ethnic federalism or divided over the question of how many states there should be formed in the Tarai – appeared to generally oppose any proposal of a north-south division, as it was frequently perceived as an attempt to perpetuate Pahadi dominance.[80]

[80] During the protests, leaders of the UFW movement had also reached out to NC Rana Tharu leaders advocating for a separate Rana Tharu state comprising only of Kailali and Kanchanpur and through their assurances that Rana Tharu concerns would be accommodated within the framework of an Undivided Far West managed to some extent to divide the Tharu constituency.

VIII. CONCLUSION AND RECOMMENDATIONS

That identity politics is a contested issue in Nepal is beyond question. This report has intended to explore one aspect of this important area of contemporary political life in Nepal, focusing on an examination of recent identity-based mobilizations in April/May 2012, as well as their impact on communal relations and debate on federalism at the local level. The Carter Centers' observations about the impact of identity-based activity on some areas of local level politics are based upon data which has been collected since 2009.

In general, this report indicates that over the past 12 months identity-based movements have remained largely in a 'wait-and see' mode although observers have found examples of organizational strengthening and sporadic public activities. However, the most intense activity appears to have responded to major political agreements or deadlines, particularly about federalism. This was most explicitly shown by the protests in April/May 2012. Therefore, identity-based activity has largely subsided since this point despite identity-based organizations continuing their organizational expansion and arranging sporadic public programs at the local level. The Carter Center findings also suggest that relations between political parties and ethnic and identity groups were disturbed as result of these protests, but have not been damaged irrevocably despite instances of localized violence and aggressive communal language. The same is true of communal relations, despite the majority of interlocutors across the country remaining concerned about how competing political forces might react to major constitutional deadlines over federalism in the future.

Finally, the report has once again highlighted that understanding of federalism amongst Nepali citizens remains limited – in part, this included lack of awareness as well as misinformation about the topic. Indeed, there appears to be a lack of political will at the national level to engage in an open and sincere dialogue on different types of federalism and ways to address various social grievances. Within this context, alarmist views, misinformation, and tension has grown, which have the potential to spill over into localized violence. As shown in April/May 2012, this is particularly true when the political stakes are high and key decisions are delayed to the last minute. There is now, more than ever, an urgent need for political leaders to show courage and display leadership on key constitutional issues.

Carter Center Recommendations

The Carter Center has developed a list of recommendations for peace process stakeholders – including political parties, civil society, media, local government, police, identity-based organizations, the international community, and citizens – regarding identity politics and federalism. These include:

- **Political parties, identity-based organizations, civil society, the media, and local government should do more to increase awareness of federalism at the local level.** As noted in previous Carter Center reports, knowledge and understanding of technical terms such as federalism remains extremely limited, particularly in remote rural areas, amongst Nepali citizens. Suggested ideas to increase awareness of these terms include increased radio programming, street theater and drama in local communities and schools, and local level focus groups (urban and rural) in Village Development Committee buildings. Political leaders, the media, and civil society should also highlight examples of federalism in other parts of the world and clearly explain the administrative and economic relationship between the central and federal government in those places.

- **Nepali constitution-drafters and lawmakers should develop and widely publicize a baseline of basic rights each Nepali citizen will be guaranteed, irrespective of their ethnicity and the delineation of future federal states.** This should be agreed upon regardless of what form of federalism is adopted in the new constitution. These rights must be articulated and explained at the without misinformation or manipulation at both the national and local level.

- **Peace process stakeholders and those drafting the constitution should discuss mechanisms to ensure social inclusion within a future federal setup of historically marginalized sections of society that are not geographically concentrated in particular regions.** The Carter Center has found a number of interlocutors from marginalized communities who are frustrated by their lack of representation within political parties. While the Center has no view on how this should be achieved in a legal framework, it does suggest that a discussion which allows more people from these communities is important given the place of inclusion in the CPA. Focus groups – inclusive of civil society groups and citizens from a broad section of society – held at regional, district and Village Development Committee-levels – as well as regular citizen polling and surveys, are two suggestions to increase more representative local level dialogue, which can be fed into broader national debates, about the constitution and federalism.

- **Demonstration organizers and participants should respect freedom of speech and right to peaceful protest, especially around major constitutional deadlines.** The Carter Center has stated that political space has continued to open in Nepal since the 2008 Constituent Assembly elections, as political parties and civil society have been allowed to articulate their agenda with increasing freedom in public; however, interlocutors have also warned that key political deadlines exacerbate tension between competing political forces and increase the likelihood of localized violence. This was clearly illustrated in April/May 2012. To this end, The Carter Center recommends that all groups respect the right to protest and freedom of speech and denounce those who incite communal, religious, or ethnic hatred and violence.

- **Develop best practices with regards to conflict management at the local level**. A number of measures – including coordination between Chief District Officers, civil society, and well organized community policing of public demonstrations – were found to have been attempted to mitigate conflict at the local level in April/May 2012. Given the efficacy of these initiatives is unclear, The Carter Center recommends an assessment of the measures adopted which can – if applicable – be formalized into a 'best practices' document to aid local government officials, Local Peace Committee secretaries, media, political parties, civil society, identity-based organizations, and the police across the country. Assistance in facilitating such assessments and provided technical expertise should be offered by the international community when requested and necessary.

- **Peace process stakeholders should increase local level dialogue between police, political parties, civil society, and citizens around major national-level deadlines.** Similarly to above, a greater emphasis should be placed on community engagement between local government and the police with the Nepali public to ensure grassroots concerns and ideas are shared amongst stakeholders. Security policy should be sufficiently flexible to adapt to nuanced security challenges, which will differ between districts.

IX. ANNEX

During the April/May 2012, multiple identity groups were strong enough to launch competing claims in several highly "contested" geographic areas (Kanchanpur, Kailali, Kaski and Nawalparasi, in particular). This annex outlines more detailed findings from confrontations and use of aggressive tactics by protesters which occurred during this period.

A. Kailali and Kanchanpur

In Kailali and Kanchanpur districts in the Far Western Region, growing tensions resulted in direct clashes and violence between political activists from opposed identity-based organizations as well as violence between these groups and the police. Political activism on federalism became polarized largely along identity lines between the 'Undivided Far West (UFW),' largely drawing support from the Pahadi community, and the 'Joint Tharu Struggle Committee' (JTSC) activists, supported by a coalition of over 27 Tharu organizations. Two competing ideas about the future of the Far Western region in any new federal arrangement clashed: the JTSC wanted the Tarai districts of Kailali and Kanchanpur to be incorporated into a larger East-West "Tharuhat" or "Tharuwan" state along with, at the least, some districts in the Mid Western Tarai; and the UFW who wanted to retain a Far Western regional identity and existing development region boundaries while being opposed to any separation of Kailali and Kanchanpur from the Far Western hills and mountains.

In response to discussions about federalism at the national level, local activists and national politicians on both sides intensified their efforts to push their respective agendas. The Maoist 10-state proposal that included Kailali and Kanchanpur in a separate state from the FWR hill and mountain districts triggered protests and a Far West bandh by advocates of a UFW. This was met by counter-mobilization from the JTSC. Clashes mainly took place in Dhangadhi and a few bazaar towns along the East-West highway, with majority Tharu-populated Village Development Committees remaining relatively calm. The already tense situation reached a peak on May 11 as both sides organized near simultaneous mass demonstrations in Dhangadhi and allegations of police bias against Tharuhat demonstrators. An agreement between the government and the UFW on 16 May facilitated the end of a lengthy UFW bandh by including Kanchanpur and Kailali districts in a future federal setup. This would comprise both of the current Seti and Mahakali zones.

B. Kaski

Observers also noted incidents of Brahmin and Chhetri Samaj Nepal and Janajati activists clashing with police in Pokhara, Kaski District. Pokhara is the proposed capital of the area claimed by Gurung groups for a 'Tamuwan' province (comprising Lamjung, Gorkha, Tanahun, Manang, Mustang, Parbat, Kaski, and Syangja districts). Although organizations like the Brahmin Samaj and the Chhetri Samaj have made no claims over the territory, they oppose 'ethnic federalism,' which places them in opposition to Gurung groups in the same area. The district is an area of particular strength of the Brahmin Samaj and the Chhetri Samaj, including the site of both organizations headquarters.

On May 10, 2012, there was a small clash in Pokhara between Brahmin and Chhetri Samaj Nepal cadres and the police. On May 21, another clash broke out between Janajati bandh organizers and police. Observers heard that other smaller ethnic communities (Magars in Sarangkot and Newars in Deurali) feel excluded from Gurung-led calls for a Tamuwan province.[81]

[81] Observers visiting Deurali heard claims that Newars residing there are inclined to give support to local Brahmins and Chhetris in their opposition to ethnic federalism, as they also fear a 'Tamuwan' province state would not benefit them.

C. Nawalparasi

Violent clashes occurred between JTSC and NIEG activists in Nawalparasi district. On May 8, NIEG activists clashed with Tharu bandh enforcers in several incidents. Amongst other instances, NIEG activists burned a Tharu museum in Danda Bazzar; the following day several JTSC activists demonstrated and enforced *bandhs* in different locations along the East-West highway in Nawalparasi to demand compensation. NIEG activists defied the JTSC activists' *bandh* and tension erupted immediately around a town on the EastEast-West highway. In order to prevent further clashes between the two sides, police fired live rounds and rubber bullets at JTSC activists, leaving 13 of them injured (four of them seriously, one of whom later died in June, sparking further protests). In dialogue the government agreed to compensate the Tharu property lost and to provide free treatment to the injured. Furthermore, NIEG and JTSC agreed not to target any of their protests at each other in future occasions.

D. Other Areas

Other parts of the country saw relatively fewer clashes and less tension, in part due to different political dynamics and also efforts to resolve tensions locally. Although districts in the far Eastern Region hills have historically seen high levels of identity-based organization and activity by Limbuwan groups, these areas were also largely free from violent clashes in the lead-up to May 27. Observers visiting Ilam in June were told by a range of interlocutors that the relative calm before and after May 28 was because Limbuwan groups were still confident that their demands would be fulfilled, and that there were no equally strong competing groups which could challenge them. NEFIN activists and Tharu cadres had a minor clash with Brahmin and Chhetri communities in Biratnagar on May 22. In this case, police were deployed to prevent further violence. A report by the UN also noted a minor clash in Damak between NIEG and United Limbu Struggle Committee activists on May 11, "although both groups and local administration acted swiftly to make sure that the situation did not escalate."[82]

In the Mid Western region peace efforts in Banke, Dang, Bardiya (explained further below) prevented clashes between anti-identity-based federalism forces (NIEG, Undivided Mid Western advocates) and pro-identity-based federalism alliances (NEFIN, Tharus). *Bandhs* took place and minor clashes occurred but the proactive intervention of stakeholders avoided serious confrontations. One example was a code of conduct agreed upon by both Brahmin and Chhetri Samaj activists along with the JTSC (Tharus) in Dang on May 17. This regulated the *bandhs* and, according to the code of conduct, Brahmin/Chhetris would conduct their programs at Village Development Committee level, while the JTSC would protest at the city/towns and each would avoid conflicting routes for their rallies.

In some areas, organizations emerged to demand that particular districts to be selected as the new provincial capitals. Such demands were reportedly raised, using different methods of protest and sometimes involving the local business community, in places such as Ilam, Dhankuta, Biratnagar, Dang, and Nepalgunj. As the debate on federalism moves forward and implementation begins, it can be expected that such protests would likely spread and potentially increase in strength.

[82] See UN RCHCO, "Confrontation over federalism," Field Bulletin, Issue 41, May 2012.