

**NATIONS UNIES**  
**HAUT COMMISSARIAT AUX DROITS DE L'HOMME**



**UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

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13 March 2009

Excellency,

You will recall that the Committee on the Elimination of All Forms of Racial Discrimination, at its 64<sup>th</sup> session held from 23 February to 12 March 2004, considered the fifteenth and sixteenth periodic reports of Nepal and adopted Concluding Observations in relation thereto (CERD/C/64/CO/5). According to paragraph 25 of the Concluding Observations, the seventeenth, eighteenth and nineteenth periodic reports, combined in one document, fell due on 1 March 2008.

In the meantime, in connection with the recent political changes in Nepal and the decision to prepare a new Constitution, issues concerning the participation of indigenous peoples' freely chosen representatives in Nepal's constitutional preparation process have been brought to the attention of the Committee. According to information submitted to the Committee, Nepal's new constitution is currently being drafted by a Constituent Assembly in which indigenous peoples may only formally participate if they were chosen by political parties and act in strict conformity with the manifestos of those parties.

I wish to inform you that the Committee, at its 74<sup>th</sup> session, held from 16 February to 6 March 2009, considered this matter under its early warning procedure with a view to avoiding irreparable harm to indigenous peoples and assisting Nepal in ensuring that the rights guaranteed by the Convention are fully recognized and respected.

In light of the above, and in order to continue its constructive dialogue with your Government, the Committee requests information on measures taken to ensure the participation of indigenous peoples in the ongoing constitution-making process. The Committee requests that such information be provided together with the fifteenth and sixteenth periodic reports, to be submitted in one document, as soon as possible and in any event no later than 31 July 2009.

**His Excellency Mr. Dinesh Bhattarai**  
**Ambassador Extraordinary and Plenipotentiary**  
**Permanent Representative**  
**Permanent Mission of the Federal Democratic Republic of Nepal**  
**Rue de la Servette 81**  
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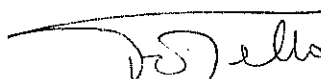
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The Committee recommends that mechanisms be established to ensure indigenous peoples' free prior and informed consent in relation to the constitutional preparation process, and that an indigenous peoples' thematic committee be set up to guarantee the representation and participation of indigenous peoples in political life.

In this regard, the Committee wishes to recall its General Recommendation No. 23 on Indigenous Peoples (18/08/97). By paragraph 4 (d) of this General Recommendation, States parties are reminded to "ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent".

Allow me, Your Excellency, to reiterate the wish of the Committee to pursue a constructive dialogue with your Government, and to underline that the Committee's request for information is made with a view to assisting your Government in the effective implementation of the Convention.

Yours sincerely,



Fatimata-Binta Victoire Dah  
Chairperson of the Committee for the  
Elimination of Racial Discrimination