

SUPPORT TO PARTICIPATORY CONSTITUTION BUILDING

IN NEPAL

Project Executive Board

9 June 2011

Centre for Constitutional Dialogue (CCD)

Present

Chair

Robert Piper, Resident Representative, UN

Sr. Beneficiary

Sharmila Karki, Secretary General, NGO Federation

Project Assurance

Kalpana Sarkar, Programme Officer, Governance Unit/UNDP

Project Manager

Rohan Edrisinha, International Project Manager, SPCBN

Others Present

Jorn Sorensen, Deputy Country Director, UNDP

Krishna Khanal, CCD Director

Charlotte Duncan, Team Leader, Effective and Inclusive State Team, DFID

Dag Nagoda, Second Secretary, Royal Norwegian Embassy

Lars P Christensen, Programme Coordinator, DANIDA HUGOU

Martin Stuerzinger, Advisor for Peace Building, Swiss Embassy

Pradeep Tulachan, Economic Advisor, Royal Norwegian Embassy

Taylor Brown, Governance Advisor, ESP-DFID

Bishnu Adhikari, Governance Advisor, ESP-DFID

Apologies-

Manohar Bhattarai, Secretary, Constituent Assembly

- Robert Piper welcomed those present. The main agenda of the meeting was to discuss the recent political developments and the way forward, CCD nationalization strategy and the post-CA extension six months work plan (July to December 2011)

- He emphasized that the Project had to respond to the political uncertainty in the country and the CA's failure to meet its deadlines. He said that the main priority of the project was to engage in dialogue facilitation to resolve key contentious issues so that the constitution would be promulgated as soon as possible. He stated that an important item on the agenda was a discussion on the future of CCD. He informed the board that following the further extension of the CA, the Project had prepared a new work plan.

- Rohan Edrisinha briefed the PEB members on the recent political developments and what he thought the Project should be doing to move the constitution making process forward. He reiterated what he had told the PEB at its meeting 2 months earlier that the emphasis of the project was on problem solving and strategic interventions to expedite the constitution making process. He said that while there were several contentious issues that posed a challenge for reaching a consensus on a new constitution, the project would focus primarily on the issues of state restructuring and federalism, inclusion and the maintenance of international norms and standards with respect to human rights.
- Prof Krishna Khanal, the CCD director, presented the CCD nationalization strategy with different options for the legal incorporation of CCD as an independent institution and a draft road map to achieve this goal. He stated that an institution like CCD was necessary in the post Constitution phase to foster a culture of Constitutionalism and assist in the transition and implementation of the Constitution.
- Jorn Sorensen presented a budget status report to the PEB. He stressed that the project had reduced its national staff by 9%, international staff by 60% and overall operational cost by 20%. He also stated that the project had a funding gap of \$0.9 million which included \$0.5 million for public consultation on the draft constitution. He further explained to the PEB members that the funding gap was reduced since the last PEB meeting since the project has reallocated the pre-positioned resources for a civil society outreach programme in the revised work plan for 2011.

Major discussions and Suggestions on project priority and six months plan

PEB members requested the project to provide a brief description of the major activities with intended results and sought some clarifications on some the activities specified in the budget.

Lars P Christensen pointed that while the presentation and plan that Rohan Edrisinha made was good, it should be documented and include specific objectives. He also emphasized that, there should be a division of labor between the different stakeholders and it has to be captured in the work plan as well. He also suggested that the project should engage with the CA procedural committee that is responsible for the public consultations on the draft Constitution. He further emphasized that if the peace process

and the preparation of the draft constitution was not proceeding simultaneously, then the project should also try to supplement the pressure created by the public, judiciary, small parties and the international community, etc to ensure that the first draft Constitution was produced by 28th August 2011.

Charlotte Duncan while associating herself with Mr. Christensen's observations, stated that she was particularly interested in the plans to engage in Dialogue facilitation on Federalism and State Restructuring. She also noted that the budget for the second six months of 2011 was bigger than the budget for the first half of the year and wondered whether the proposed budget for the next six months was realistic. She also wanted more details on the budget line items dealing with the public consultation programme.

Taylor Brown mentioned that, the plan seems to be relatively optimistic and he also emphasized that, according to the IPM's analysis, the spending of monies allocated in the budget in the next three months might be limited. He wondered whether the revised budget had been prepared with a project extension into 2012 in mind.

Dag Nagoda agreed with the IPM's analysis and suggested that it be recorded in the minutes that could be approved via email. He also stressed the importance of informal consultations with the party leaders so as to promote accommodation and agreement on a consensus constitution. Regarding the budget, he noted that the budget looked very optimistic given the time frame involved but stated that if the project had remaining funds and there was no constitution by the end of the year, then the option of a no cost extension into 2012 could be considered. He added that even then if a case could be made for additional funds that Norway would be willing such additional assistance. He agreed with Mr. Christensen's concern that the project should not be competing with the CA's role and responsibility for outreach and he wanted more clarification with respect to the outreach activities that remained in the Work Plan. He recommended that any outreach programme be designed in a way to strengthen the CA Committees and if there is any additional work then there has to be a convincing justification made for such work.

Bishnu Adhikari stated that there are similarities in a few activities in the work plan that should be distinguished and also the budget should be realistic.

Sharmila Karki appreciated the project priority and focus towards gender, state restructuring and social inclusion issues. However, she emphasized that, since there has been a lot of work done in the area of outreach by CSOs and now the project should focus on other important issues such as dialogue facilitation on contentious issues and also with potential spoilers. She suggested that project should coordinate with other organizations to avoid duplication.

Rohan Edrisinha, responded to some of the issues/concerns raised. He stated that the project would do all it could to ensure that progress and momentum was maintained in the next 3 months.

Regarding the amount of USD500,000 projected unfunded budget line item, he stressed that it would be needed only if a draft constitution was produced and there was therefore a need for public

consultations on such a draft. He said that the project remained hopeful that a draft constitution would be ready during the course of the year, and since public consultation was important the project had prepared some of the materials as far as this was possible and was ready to respond quickly to the need for a short, effective public consultation process. He clarified the mechanism for such a public consultation process stating that it would be led by the CA and several CSOs with a proven track record.

He also explained to the PEB members that, despite the fact that probably the political leaders will focus primarily on the wider issues of the peace process in the first 3 months following the extension, the project would continue to engage with CA members as much as possible and also explore options on some of the contentious issues including state restructuring, inclusion and international human rights norms during this period.

Mr. Edrisinha also clarified that the project will be working for different options on the number and boundaries of provinces. Prof. Khanal added that project cannot make decision on the provinces but can come up with range of options and suggestions to help them compare the options.

In response to the queries on the increased budget in the second half of the year, Mr. Edrisinha clarified that

- 1) it anticipates support for the constitution making process the constitution is promulgated and
- 2) It also includes the printing and other work related to public consultations after the first draft is produced.

Major discussions and Suggestions on CCD Nationalization strategy

Lars P Christensen suggested that DANIDA will be interested to discuss the wider issues relating to transition and implementation including what kind of support the international community should provided to implement the new constitution in Nepal.

A team should set up and discussed outside CCD to analysis the broader issue of how the international community can support the implementation of the new constitution and to ascertain whether the CCD has a role to play in that process. He stressed that the expertise of the project and CCD should play a key role in such consultations.

Charlotte Duncan agreed with Mr. Christensen's suggestions.

Martin Stuerzinger suggested that the project/CCD could take the lead in facilitating discussion on the challenges of transition and implementation with a wide range of actors.

Referring to the Strategy to Nationalize the Centre for Constitutional Dialogue (CCD), he also suggested that CCD should also have to look at options and lessons learned from other countries.

Dag Nagoda questioned if PEB is the right place to discuss about the challenges of transition and implementation and the future of CCD. He further emphasized that he would like to see the strategic planning to identify the need of the day after the promulgation of new constitution.

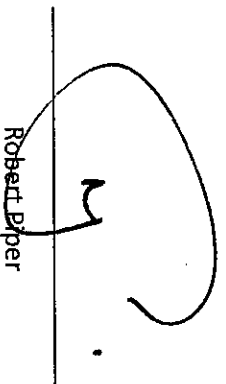
Sharmila Karki said that PEB is the right place to discuss about the future of CCD as PEB implemented it. However, PEB can't only decide how CCD will move forward. This issue has to be discussed with other stakeholders as well. There has to be more discussion about the future CCD. She also suggested that CCD should be more than what it is now as it has more capacity than other organizations.

Taylor Brown added that, there should be an involvement of Government and Civil Society as well to discuss the future of CCD .

Krishna Khanal responded to some of the observations made. He stated that from the informal discussions with some political leaders and CA members he realized that they favoured the existence of an organization like CCD. He further emphasized that CCD could be a study and information Center. According to many leaders he had consulted confining the CCD to the CA Secretariat will be limiting its scope. He suggested that an option would be for CCD to collaborate with other institutions as well.

Major Decisions Made

- A revised budget with a commentary on each set of activities will be sent to the PEB members for approval.
- The IPM's presentation will be documented and sent to the PEB members.
- The next Project Board meeting will be held in early September to review progress on the constitution making process and the budget.
- There will be a discussion on the role of the international community and CCD in the transition and implementation of the Constitution facilitated by the project.



Robert Piper

Resident Representative
UNDP