

# Indigenous Peoples' Autonomy and Self-Governance

Banshi R. Chaudhary, Nepal

# Background

Nepal is

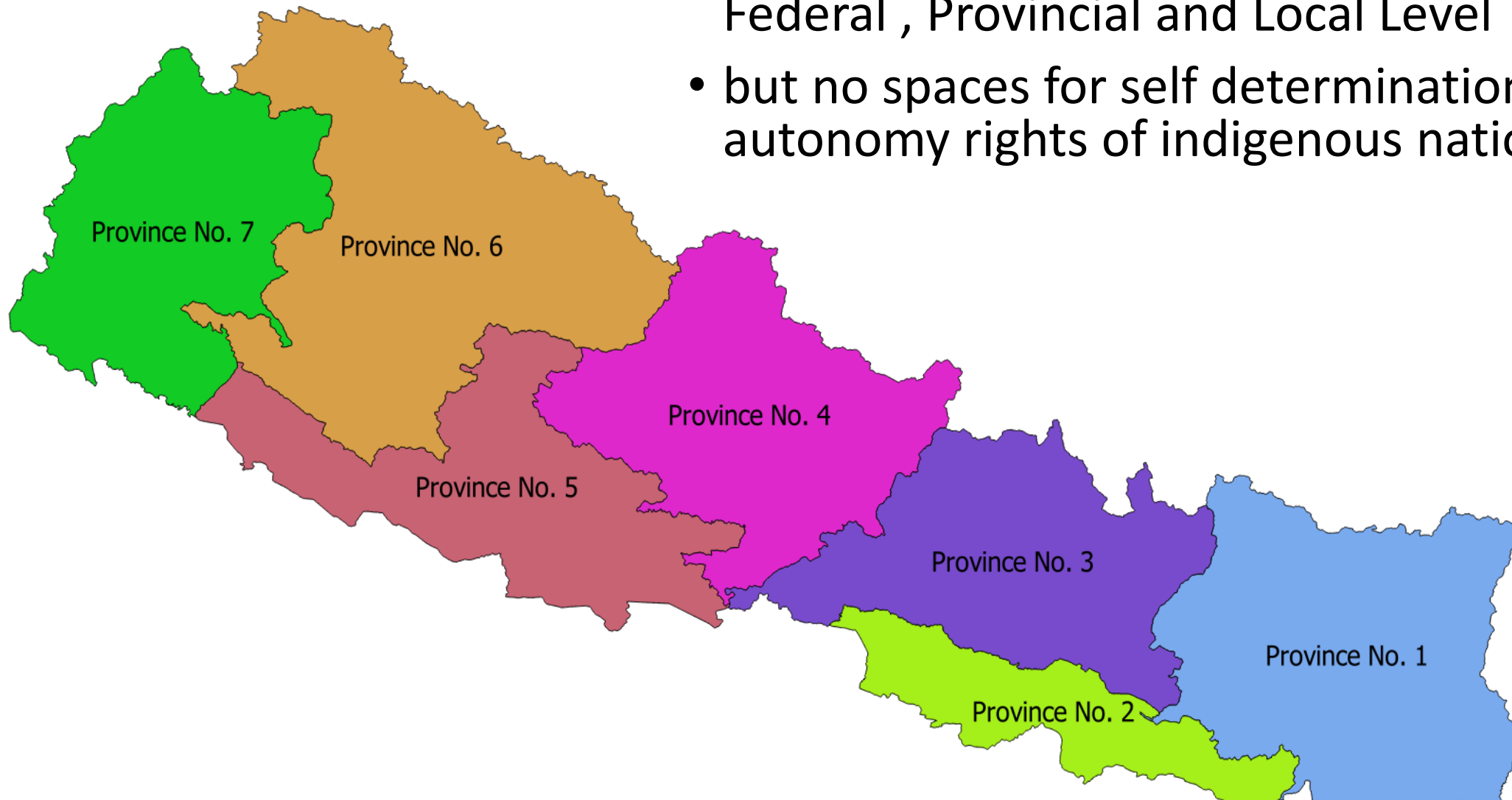
- "multi-ethnic, multi-lingual, multi-religious, multi-cultural and diverse regional characteristics"
- Homeland to 125 caste/ethnic groups, 123 languages and 10 religious groups.
- Indigenous peoples (IPs) comprise 35.8 percent of the total population.
- legally recognized 60 indigenous nationalities, referred to as Adivasi Janajati.

# Background

- IPs of Nepal as a third category of Hindu Caste hierarchical system, legally institutionalized with the codification of the **Civil Code (Muluki Ain) 1854**.
- Further the Act divided IPs into slave-able and enslaveable. The Civil Court is still in practice with some changes.
- The principles and the notion of the Civil Code reflected in several existing legal provisions.

# Background

- New State structure with promulgation of new Constitution in September 2015.
- Three tiers of governments systems— Federal , Provincial and Local Level
- but no spaces for self determination and autonomy rights of indigenous nationalities



# IP's Autonomy and Self Determination (Functional Autonomy)

- National Foundation For Development of Indigenous Nationalities (NFDIN), an autonomous body, established in 2002 through an Act.
- Ratification of ILO 169 Convention by Nepal in 2007, the first county in South Asia – no execution at all.
- Provision of Tharu Commission, and Indigenous Nationalities Commission in New Constitution of Nepal 2015 -but without political and executive powers,

- The Constitution accepts principle of inclusion and proportional representation in the state structure as a fundamental right of different sections of society including, IPs.
- In practice, the proportional representation is not a free, meaningful and accountable representation of IPs
- It is representation of respective political parties rather than the group that they belong to. Indigenous Parliamentarian works in strictly in their party line.

# IP's Priorities

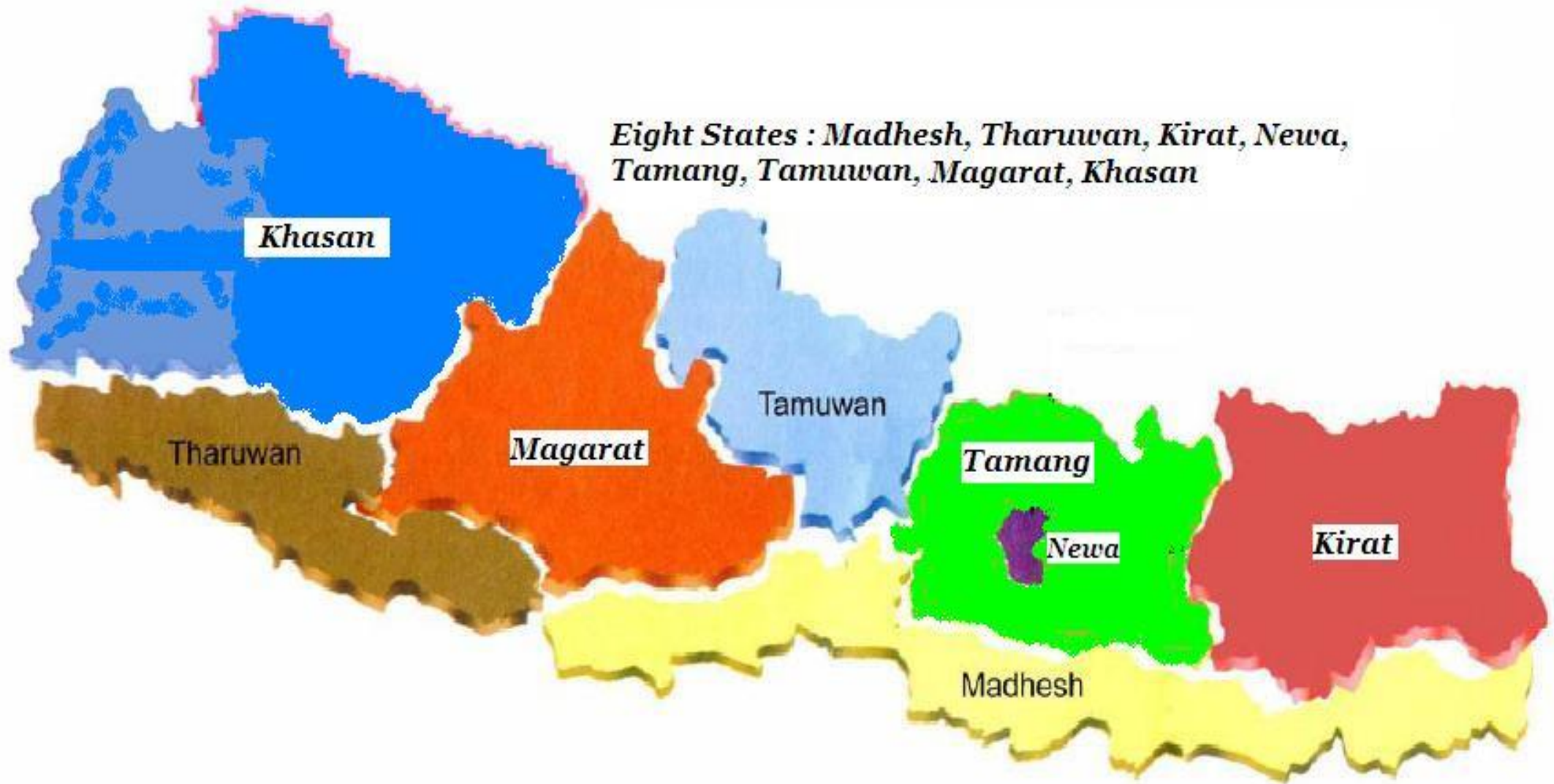
- Form Autonomous States of the major indigenous groups, and special protected areas for the endangered IP communities, and with right to self-determination vis-à-vis self governance and institutionalize in the constitution.







*Eight States : Madhesh, Tharuwan, Kirat, Newa, Tamang, Tamuwani, Magarat, Khasan*



**Khasan**

Tharuwan

**Magarat**

Tamuwani

**Tamang**

Newa

**Kirat**

Madhesh

# IP's Priorities

- Restructure the State respecting IPs' ancestral lands and territories.
- Amend the Constitution to ensure de-jure and de-facto rights and equality as well as respect identity and dignity of IPs.
- Establish a specific Mechanism or Committee in the Legislative Parliament (Local, Provincial and Federal) through IPs Representatives freely chosen in accordance with their process to give space for free voice in relation to amend or reform the Constitution.

- Ensure autonomy and self-rule of IPs in laws that respects right to self-determination in their ancestral lands and territories in accordance to agreements between Indigenous Peoples and the State.
- Make the local level structures more inclusive based on the population size of IPs.
- Recognition of traditional governance systems such as Badghar, Guthi and Bheja