KATHMANDU ADIVASI-JANJATI DECLARATION
on
ILO CONVENTION NO. 169 AND PEACE BUILDING IN NEPAL

(Kathmandu, 19 and 20 January 2005)

Having met in Kathmandu, Nepal, from 19th January to 20th January 2005, during the National Dialogue Conference on ILO Convention No. 169 on Indigenous and Tribal Peoples and Peace Building in Nepal,

Respecting the legal recognition by HMG Nepal of 59 indigenous nationalities, equal in dignity and rights to all other citizens, but distinct in term of cultures, languages, religions,

Affirming the aspirations of the indigenous peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages, religion, within the framework of the State,

Acknowledging the international human rights instruments, UDHR, ICCPR, ICESCR, CERD, CEDAW, CRC, ILO CONVENTIONS Nos. 29, 111, 138, 182 ratified by Nepal\(^2\), which recognize the importance of human rights and fundamental freedoms of all peoples, including indigenous, and condemn all types of discrimination both in policy and practice including exclusion, marginalization and preferential treatment which may impair equality toward indigenous peoples,

Recalling the Recommendation by the Committee on the Elimination of Racial Discrimination (CERD), made in March 2004, requesting HMG/Nepal to take stricter measures to combat discrimination and to consider ratification of C. 169,

Acknowledging the efforts of His Majesty’s Government of Nepal to promote rights and development of indigenous nationalities as expressed in the Tenth Five Year Development Plan,

Recalling the commitment made by the Rt. Hon. Prime Minister Sher Bahadur Deuba for the ratification of the Indigenous and Tribal Peoples Convention, 1989 (No.169) on 9th August, 2004 and 19th January, 2005,

Conscious of the ongoing conflict in Nepal hampering the effective implementation of development policies and having a negative impact on indigenous nationalities,

Recognising that universal and lasting peace can only be achieved when based on social justice and that ILO Convention on Indigenous and Tribal Peoples, 1989 (No. 169) is a powerful tool for development and peace-building,

Affirming that all policies and activities in the field of indigenous nationalities in Nepal can only be designed and applied successfully in close consultation with and full participation of indigenous nationalities and their representative organisations,

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2 See appendix for list of acronyms.
Appreciating the support of HMG/Nepal for this Conference to enter into a dialogue process with all concerned stakeholders,

Firmly hoping that this meeting will contribute to harmonious relations between all peoples of Nepal,

Proclaim the Kathmandu Adivasi-Janjati Declaration on the promotion of the human rights and fundamental freedoms of Nepalese indigenous peoples 2005 and recommend that the concerned parties adopt the following measures:

1. **Call upon HMG/Nepal to:**

   **Ratification**
   1. Ratify the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and use it as a framework to guide policy formulation for the sustainable development of indigenous nationalities in all areas of social, economic and political life.
   2. Recognise that ratification and implementation of the Convention has the potential to address the root causes of the ongoing conflict in Nepal by addressing the major issues of exclusion raised by indigenous nationalities and finding solutions in a participatory manner.

   **Conflict Resolution and Peace Building**
   3. Ensure the participation and proportional representation of indigenous peoples, including indigenous women, in the peace process.
   4. Recognise social exclusion of indigenous nationalities as a root cause of the conflict and the urgent need to address indigenous issues, along with issues raised by other marginalised groups, for the establishment of lasting peace in Nepal.

   **Participation, Consultation and Representation,**
   5. Ensure the participation, consultation and representation of indigenous peoples through their representative organisations (including proportional representation of women) at all levels in decision-making bodies and processes.

   **Constitutional, Legislative and Judicial Measures**
   6. Ensure the proportional representation, including of women, in all political structures, from national to local, on basis of the population of indigenous peoples.
   7. Ensure that all necessary constitutional, legislative, administrative measures, including appropriate forms of affirmative action and public education programmes to prevent, prohibit and redress ethnicity based discrimination, and that such measures are respected and implemented by state authorities at all levels.
   8. Amend or reform any discriminatory legislation through a process of broad-based consultations with representative indigenous people’s organisations and organisations representing other excluded groups.
   9. Seriously consider holding a constituent assembly, preceded by broad-based consultations with all sections of society, taking their demands into account in all decision-making processes.
   10. Recognize and respect the traditional laws and customs of indigenous peoples within the framework of internationally recognised human rights and the national Constitution.

   **Rights to Land, Forest and Natural Resources.**
   11. Recognise, respect and identify indigenous peoples’ traditional rights over territories, land, forest and natural resources traditionally owned, occupied and/or used by indigenous them.
Languages
12. Recognise indigenous languages as official languages of the nation.
13. Promote the use of indigenous languages in the administration and judicial system, as well as in the mass media.
14. Provide adequate resources to implement the constitutional provision on mother tongue education.

Right to Citizenship
15. Implement the right to citizenship by the issuance of identity cards to all indigenous peoples who are currently denied this right, as an interim measure, to be followed by the formation of a high level commission to expedite the process of the provision of citizenship certificates to all indigenous peoples.
16. Amend discriminatory citizenship laws that confer citizenship to children solely on the basis of their father’s identity.

Implementation, Monitoring and Evaluation.
17. Make available the necessary means to administer programmes supporting indigenous peoples; ensuring implementation within a predetermined time frame, with specified targets.
18. Set up independent, transparent and accountable systems of evaluation and monitoring of programmes, with proportional and genuine participation of representatives of indigenous nationalities, including women, from among the five classifications of the 59 indigenous nationalities.3
19. Call for donors to support administration and implementation of programmes for indigenous nationalities, through technical assistance and supplementary provision of sufficient means.
20. Implement the National Human Rights Action Plan (NHRAP), calling for revision and amendment of existing laws and, where necessary, formulation of new laws, awareness-raising, institutional capacity building, social mobilization and training on indigenous issues (Chapter 8 of Plan).

Geographical Disparities.
21. Ensure application of the provisions of C.169 throughout the territory of the Kingdom of Nepal, prioritizing especially poor and remote districts with high numbers of disadvantaged indigenous nationalities, bearing in mind that the needs and priorities of these people may be different from those of urbanised or more advantaged groups.

Women
22. Recognise that indigenous women are a heterogeneous and diverse group that require diversified approaches in the implementation of development plans, programs and policies.
23. Ensure participation and proportional representation of indigenous women in any affirmative action designed for women from local to national levels.

Children
24. Ensure access to and implementation of mother tongue education for indigenous children.
25. Increase efforts to address high instances of child and bonded labour among indigenous nationalities, including trafficking of indigenous girls.

3 Endangered, Extremely marginalized, Marginalized, Under-privileged and Advanced, based on classification by the National Foundation for the Development of Indigenous Nationalities (NDFIN) in conjunction with Nepal Federation of Indigenous Nationalities (NEFIN).
Employment
26. Ensure an equitable, transparent and effective system of preferential treatment (positive discrimination) in skills development, vocational training and access to employment of indigenous nationalities to increase their employability and to raise their employment level in general. Special measures should be taken to enhance women’s access to employment.
27. Form a committee to study forms of discrimination in the labour market relating to indigenous peoples and develop policies and strategies to address them, with the technical support of the ILO.
28. Ensure that National Foundation for Development of Indigenous Nationalities (NFDIN) is allocated and has access to adequate financial and human resources to allow it to effectively implement its policy and mandate.

Data and Ethnographic survey
29. Ensure all data is disaggregated on the basis of caste, ethnicity and gender.
30. Form a research commission to undertake a comprehensive nationwide ethnographic survey to get a clear perspective of the population of indigenous nationalities, to assess their needs and to identify particularly vulnerable groups, and to revise the current list of 59 recognised indigenous nationalities where necessary.

Second International Decade of the World’s Indigenous Peoples
31. Form an effective and representative high-level national committee to implement programmes in line with the Second International Decade of the World's Indigenous peoples.

Millennium Development Goals (MDGs)
32. Ensure the participation of indigenous peoples organisations in achieving the MDGs and that their specific needs and challenges are taken into account in attaining all the goals.

2. Call upon Indigenous Nationalities and their Representative Organisations to:-
33. Ensure the participation and proportional representation of women at all levels of indigenous peoples’ organisations, including managerial positions.
34. Ensure that the issue of internal discrimination within indigenous nationalities is adequately addressed.
35. Ensure that the needs of indigenous nationalities in remote rural areas are not marginalised when formulating and implementing policies and programmes, by ensuring their participation and representation in all activities.
36. Take urgent action to start dialogue with the government to ratify C. 169, including lobbying, and advocacy until the Convention is ratified and upon ratification, to monitor implementation of all provisions within a specific time-frame.
37. Create a network and alliances at national and international levels to protect, promote and ensure their rights, including the ratification of C. 169

4 Proclaimed by the United Nations General Assembly on 20 December 2004 and commenced as of from 1st January 2005.
3. Call upon ILO Social Partners (employers and workers organisations).

38. Design and implement employment strategies to ensure higher participation, and promotion of the rights at work of indigenous nationalities in the Nepalese workforce, within the framework of the 'Decent Work agenda'.

4. Call upon the, ILO, UN System, Donor and Development Agencies to:-

39. Support administration and implementation of programmes for indigenous peoples through technical assistance programmes and financial support, while assuring effective, transparent and participatory systems of evaluation and monitoring, keeping a close eye on the comparative advantage of each organisation to avoid duplication.
40. Ensure that all data is disaggregated on the basis of caste, ethnicity and gender and that the specific vulnerability of indigenous peoples is taken into account in all activities.
41. Respect the provisions of C. 169 and take prior consultation with indigenous peoples, including women, while undertaking any programme or project affecting them.
42. Specifically focus on the protection and promotion of indigenous women and children who are the most vulnerable and may face multiple discrimination.
43. Increase representation of indigenous nationalities, including women, (and other marginalised groups) in their organisations, by implementing affirmative action measures in recruitment.
44. Set up a working group of international agencies, with the participation of representatives from indigenous peoples organisations, focusing on the development of indigenous nationalities and the establishment of lasting peace.
48. Support the National Human Rights Commission in creating a focal point on indigenous nationalities, with full representation, participation and consultation with indigenous nationalities.
49. Take into account (where they exist) each other's policies on indigenous peoples, and in the absence of a specific policy on indigenous peoples, develop one in direct consultation with representative indigenous people’s organisations, using C.169 as a guiding framework.
50. Disseminate information and awareness raising among indigenous peoples’ organisations and stakeholders in all five development regions on C. 169. The ILO and the international community at large are called on to support and organise workshops, seminars, development of training material and other means of communication to facilitate this at the village, regional and national level.
51. Provide support to indigenous people’s organisations to enhance their institutional capacity for advocacy and lobbying with concerned parties and the government for the ratification and implementation of ILO C. 169.

Call upon the ILO specifically to: -

52. Design, in conjunction with the ILO constituents and indigenous nationalities a Decent Work Plan for Indigenous Nationalities, in a public-private partnership framework.
53. Intensify its work on child labour in Nepal and reach out to indigenous children in particular
54. Assist HMG/Nepal to ratify C. 169 as soon as possible and provide necessary technical and other assistance to the government, where necessary, particularly in any future peace process.
55. Use its strategic position for the promotion of the Convention among the international development and donor agencies that are committed to the potential of C. 169 as a tool to facilitate the promotion of human rights, development, social justice and lasting peace in Nepal.
Appendix

Acronyms of International Conventions ratified by Nepal

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<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>UDHR</td>
<td>Universal Declaration of Human Rights, 1948</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights, 1966</td>
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<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights, 1966</td>
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<tr>
<td>CERD</td>
<td>Convention on the Elimination of all forms of Racial Discrimination, 1965</td>
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<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of all forms of Discrimination Against Women, 1979</td>
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<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child, 1989</td>
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**ILO Conventions**

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<tr>
<th>Number</th>
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<tbody>
<tr>
<td>No.29</td>
<td>Forced Labour Convention, 1930</td>
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<tr>
<td>No.111</td>
<td>Discrimination (Employment and Occupation) Convention, 1958</td>
</tr>
<tr>
<td>No.138</td>
<td>Minimum Age Convention, 1973</td>
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<tr>
<td>No.182</td>
<td>Worst Forms of Child Labour Convention, 1999</td>
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