

Basic Agreement Paper presented and ratified in the General Assembly of Adivasi/Janajati 2009 (Nepal Era 1130)

A. Common Issues of Adivasi/Janajati:

1. Management of collective life system of Adivasi/Janajati through their own value and norms under concerned Adivasi/Janajati's ownership and control.
2. Word to word compliance and implementation of UNDRIP and ILO Convention No. 169, which have guaranteed the rights of Indigenous Ethnicities at a minimum through constitutional, legal and administrative provisions. In addition, ensuring that the rights, guaranteed by all human rights related documents, declarations and plan of actions, including UN Declaration, UN Human Rights Declaration, Covenant on Political and Citizens' Rights, Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women-CEDAW, which have been ratified and expressed commitment by Nepal.
3. Democratic Republic.
4. Federalism based on ethnicity, language and region with historical background.
5. The Adivasi/Janajati's right to Self-Determination.
6. Ethnic Autonomy and Self-Governance.
7. The Political Right to Priority.
8. Secularism.
9. Multi-national state.
10. Free, prior and informed Consent of Adivasi/Janajati.
11. Traditional Judiciary System of Adivasi/Janajati.
12. The rights to self-determination centered development.

13. The right to compensation.
14. Special identity, including land, of Adivasi/Janajati.
15. Establishment of equal status and recognition of languages, religions and cultures of Adivasi/Janajati in the state.
16. Ensuring the ownership and control of related Adivasi/Janajati over natural resources, including water, forest and land in ancestral land.
17. Proportionate representation of Adivasi/Janajati based on ethnic population in the overall structure of the state rule and special constitutional provision of compulsory representation and special arrangement for Adivasi/Janajati in minority.
18. Ensuring constitutional, legal and administrative provisions for gender equity and equality, including the right to self-determination for Adivasi/Janajati women to establish the identity of Adivasi/Janajati women and to end all types of ethnic and gender discrimination against Adivasi/Janajati women.
19. Ensuring equal collective status of Adivasi/Janajati in majority and minority.
20. Enlisting of Adivasi/Janajati, remaining to be enlisted.
21. Immediate word-to-word implementation of agreements between the state and Adivasi/Janajati Movement.
22. A new multi-national unity, including Adivasi/Janajati's community identity and personal and collective rights.

B. Rights of Adivasi/Janajati, to be ensured in the new Constitution:

1. The rights guaranteed to Adivasi/Janajati by international legislations should be covered word to word.
2. All Adivasi/Janajati should have the right to self-determination. They should have the right to adopt and implement legislative, administrative and other measures through traditionally and freely determined

institutions and judicial organizations and according to judicial custom, value and norms for the autonomy and self-governance of their own region and community using this right. Under this, Adivasi/Janajati should have the right to establish autonomous and self-governed states within federal structure based on ethnic historical background, castes and languages, including the right to priority to Adivasi/Janajati.

3. Adivasi/Janajati should have the right to determine their own identity and norms as well as responsibilities of community members to the community according to their customs and traditions. It will not diminish the right of a person of related community to receive and maintain double citizenship of the Federal Republic of Nepal and of an ethnic autonomous and self-governed state and enjoy his/her right as other citizens of the state.
4. Adivasi/Janajati should have the right to their mother language and use their mother language in every body and level of the state. Adivasi/Janajati students should have the right to basic and primary level education to higher education in their mother language and this opportunity should be ensured. In addition, a multi-linguistic university should be established.
5. Personal, collective and human rights of Adivasi/Janajati, guaranteed by international law, including International Labor Organization Convention No. 169 and United Nation Declaration on the Rights of Indigenous Peoples, should be completely recognized as well as guaranteed and protected. Effective remedies should be provided through judicial, administrative and other measures in case of violation of personal, collective and human rights of Adivasi/Janajati.
6. Persons and communities of Adivasi/Janajati will be free and equal to other citizens and Adivasi/Janajati will not be victimized of any discrimination regarding enjoyment and practice of the rights, particularly based on Adivasi/Janajati's origination and identity. Adivasi/Janajati should have the right to effective remedies against any discrimination.

7. All rights of Adivasi/Janajati will be equally implemented for Adivasi/Janajati women and men. Adivasi/Janajati women will have special rights regarding leadership for equality and development. The state will implement various initiatives to provide effective remedies against discrimination, violence and violation of human rights against Adivasi/Janajati women, senior citizens, youths, children, third gender and people with different ability. Adivasi/Janajati women should have the right to participate in every organ of the state based on proportionate participation with their identity.
8. The new Constitution should have a provision regarding additional special rights for endangered, marginalized and highly marginalized groups within Adivasi/Janajati.
9. The state of Nepal should ensure and put into practice the inherent right to self-determination of Adivasi/Janajati in the Constitution. In addition, it should ensure the right of Adivasi/Janajati to participate in the state's political, economic, social and cultural sector in an effective way according to their own process and through freely elected representatives.
10. Nepal will be a sovereign, free, multi-national, multi-linguistic, multi-cultural and secular state. In addition, Nepal will be a federal, democratic, republic and secular state.
11. The state should recognize the rights of Adivasi/Janajati to determine their own political system freely and their rights to adopt their own economic, social and cultural development and their rights to ownership and effective control over their ancestral and traditional land, region and resources. This should include the rights of Adivasi/Janajati at every level of the government and the rights of Adivasi/Janajati to free, prior and informed consent regarding the issues, which affect their rights, life, region and interests. The rights of Adivasi/Janajati include their rights to restoration of their captured traditional land, habitats, religious places in past in their original shape.
12. The state should protect the rights of Adivasi/Janajati to maintain, develop and protect their political, economic and social system and

organization, indigenous traditional knowledge and skills, heritage, religious education system, and to have access, use and control the means of their livelihood and development, as well as to involve freely in their traditional activities and economic activities.

13. In addition to the rights mentioned in Point No. 10, 11 and 12, Adivasi/Janajati will have the rights to participate in the central and every level of the state, including local legislative through freely elected representatives by their representative organizations and processes.

C. About the process of building the new constitution

1. in the constitution making process, in line with the provisions in the international laws that Nepal has ratified, the early warning letter of 13 March 2009 and the follow-up letter of 28 September 2009 sent by the Committee on the Convention on the Elimination of All Forms of Racial Discrimination to the Government of Nepal and the recommendation of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people on 20 July 2009, for the free, prior and informed consent, by establishing a thematic committee in the Constituent Assembly and other appropriate mechanisms, along with assurance of meaningful and effective representation of indigenous nationalities and only after establishing free, prior and informed consent through that mechanism, all provisions including constitutional principles, preamble, articles, sub-articles, annex etc. indigenous nationalities should be passed and, separate provisions should be included in relation to the identity and collective rights of Adivasi/Janajati.
2. The Committee on the Convention on the Elimination of All Forms of Racial Discrimination recommends that a thematic committee on Adivasi/Janajati be set up in the Constituent Assembly and constitutional preparation process to guarantee free, prior and informed consent through the representatives selected by the Adivasi/Janajati in accordance with their tradition.

D. Strategy and Programme of Agitation for the Immediate

1. The National Action Plan submitted by the Task Force of the government should be immediately enforced in order to implement the International Labour Organization Convention No. 169.
2. Launch an immediate strong joint agitation both at Assembly and on the street in order to ensure the above mentioned rights of Adivasi/Janajati in the concept papers presented and going to be presented in the different thematic committees and the constitutional committee of the Constituent Assembly.
3. If above mentioned rights of Adivasi/Janajati are not ensured in the concept papers presented and going to be presented in the different thematic committees and the constitutional committee of the Constituent Assembly, a stronger, more aggressive and decisive agitation will be commenced.
4. If above mentioned rights of Adivasi/Janajati are not ensured in the new constitution promulgated by passing in the Constituent Assembly, then - rejecting the constitution - an Adivasi/Janajati oriented revolt will be launched.

E. Operation and Process of the Mega Front of Adivasi/Janajati

1. Operation of the Mega Front of Adivasi/Janajati will be made on the basis of collective leadership.
2. Necessary structure, immediate programme of the agitation and process etc. of the Mega Front of Adivasi/Janajati will be determined by the general assembly.
3. Future programme and process of agitation will be prepared by the newly formed Mega Front.
4. The initiating team for the general assembly:
 - a. Dr. Krishna Bhattachan - coordinator
 - b. Nanda Kandangwa - member
 - c. Shanti Rai - member
 - d. Suresh Alemagar - member

- e. Jyoti Danuwar - member
- f. Malla K. Sunder - member

Date: 21 November, 2009 (Mangsir 6, 2066 BS), Saturday, Thinlathwo 5, 1130 NS

Venue: Chumlung Him, Kirant Yakthung Chumlung, Tikhe Dewal, Lalitpur

Being agreed with this basic agreement paper, we here undersigned representatives and participants from political parties, Adivasi/Janajati CA members, ethnic brother/sister organizations, ethnic political parties, ethnic organizations including Nepal Federation of Indigenous Nationalities, District Coordination Council of Federation of Indigenous Nationalities, National Indigenous Women Federation - District Coordination Committee, and foreign based indigenous nationalities organizations, ethnic NGOs, ethnic professionals' organizations, indigenous nationalities youth and students associations, struggling committee, network, coalition, front, indigenous nationalities intellectuals are as follows:

Name and address	reference organization	signature
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