

# नेपालमा आदिवासी अधिकार

नीतिगत अवस्था, चुनौती र अवसरहरू

सम्पादन सल्लाहकार

शान्ति कुमारी राई दिनेश कुमार घले

शंकर लिम्बू भिम राई

अमृत योन्जन-तामाङ

सम्पादक

टहल थामी

गोबिन्द छन्त्याल

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ISBN 9879937913539



9 879937 913539

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प्रकाशक: नेपालका आदिवासीहरूको मानव अधिकार सम्बन्धी

वकिल समूह (लाहूर्निप)

अनामनगर, काठमाडौं ।

पो.ब.नं.: १११७९

फोन: +९७७ ०१ ४२६८५१०

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लेआउट: खापुङ, क्रियसन

अनामनगर, काठमाडौं ।

ISBN: 978-9937-9135-3-9

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## Indigenous Peoples Rights in Nepal: Policy Status, Challenges and Opportunities

Editorial Advisors: Shanti Kumari Rai, Dinesh Kumar Ghale,  
Shankar Limbu, Bhim Rai, and Amrit Yonjan-Tamang.

Edited by Tahal Thami/Gobinda Chhantyal

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## Abbreviation

AD	Anno Domini
ADB	Asian Development Bank
AGRBS	Access to Genetic Resources and Benefit
Sharing	
AIPP	Asia Indigenous Peoples Pact
CA	Constituent Assembly
CBD	Convention on Biological Diversity
CBR	Community Based Rehabilitation
CBS	Central Bureau of Statistics
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
COP	Conference of the Parties
CPN	Communist Party of Nepal
CRC	Convention on the Rights of the Child
CSR	Corporate Social Responsibility
CSRDSP	Committee for State Restructuring and Division of State Power

DDC	District Development Committee
DFID	Department for International Development
EA	Electricity Act
EIA	Environment Impact Assessment
FPIC	Free, Prior and Informed consent
GI	Governance Index
GL	Generation License
GoN	Government of Nepal
GSI	Gender and Social Inclusion
HDI	Human Development Index
HLSRRC	High Level State Restructuring Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICIMOD	International Centre for Integrated Mountain Development
IEE	Initial Environmental Examination
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
ILO	International Labour Organisation
INC	Indigenous and Nationalities Commission
IPPs	Independent Power Producers
IPs	Indigenous Peoples
IWGIA	International Work Group for Indigenous Affairs
LAHURNIP	Lawyers' Association for Human Rights of Nepalese Indigenous Peoples
LGBTI	Lesbian, Gay, Bisexual, Transgender & Intersex
LTR	Lands, Territories and Resources
MAT	Mutually Agreed Terms
MoAD	Ministry of Agricultural Development
MoFSC	Ministry of Forest and Soil Conservation
MoFSC	Ministry of Forests and Soil Conservation
MoLJPA	Ministry of Law, Justice & Parliamentary Affairs

MoPE	Ministry of Population and Environment
MW	Mega Watt
NBSAP	National Biodiversity Strategy and Action Plan
NC	Nepali Congress
NEFIN	Nepal Federation of Indigenous Nationalities
NESAC	Nepal South Asia Centre
NFDIN	National Foundation for Development of Indigenous Nationalities
NPC	National Planning Commission
NTFPs	Non-Timber Forest Products
PES	Payment for Ecosystem Services
PI	Poverty Index
SL	Survey License
SOM/P	Standard Operating Manual/Procedures
SRHLRC	State Restructuring High Level Recommendation Commission
UCPN (Maoist)	Unified Communist Party of Nepal (Maoist)
UML	Unified Marxist Leninist
UN	United Nations
UNCED	United Nations Conference on Environment and Development
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNPFII	United Nations Permanent Forum on Indigenous Affairs
VDC	Village Development Committee
WB	World Bank
WRA	Water Resource Act
WSSD	World Summit on Sustainable Development

## प्रकाशकीय

संविधानसभामार्फत संविधान निर्माणलाई लोकतन्त्रको उत्कृष्ट नमूना मानिन्छ। इतिहासमा यस्ता अवसर विरलै आउँछ। नेपालको सन्दर्भमा पनि नेपाली जनताको लामो संघर्षपछि यो अवसर जुरेको हो। तर जसरी संविधानसभाले आम जनता तथा समुदायहरूको अधिकारका आवाजहरूको सम्बोधन गर्नुपर्थ्यो, त्यो हुन सकेन। संविधानसभाबाट बनेको संविधानमासमेत आदिवासीलगायतका समुदायहरूको अधिकार सुनिश्चित हुन नसक्दा असन्तुष्टिहरू भन बढेका छन्। त्यसको समाधान बेलैमा निकाल्न नसके देश भयंकर दुर्घटनामा पर्न सक्छ। त्यसरी संवैधानिक अधिकारबाट वन्चित एक समूह हो आदिवासी। ती समूहहरूको अधिकारका सम्बन्धमा संविधानमा भएका व्यवस्था र उनीहरूले चाहेको अधिकारका सम्बन्धमा गत पुष २२-२३, २०७३ (6-7 Januray 2017)मा काठमाडौंमा बृहत् सम्मेलनमा छलफल भएको थियो। सो कार्यक्रमको आयोजना गर्न पाउँदा लाहुर्निप गर्व महशूस गर्दछ।

सो कार्यक्रम आयोजनामा विभिन्न व्यक्ति, व्यक्तित्व तथा संघसंस्थाहरूको अमूल्य सहयोग लाहुर्निपलाई मिलेको थियो। यसरी सहयोग तथा सल्लाह सुझाव दिनुहुने डा. कृष्ण भट्टचन र डा. नवीन राईप्रति हामी आभारी छौं। त्यसैगरी United Nations Permanent Forum on Indigenous Issues (UNPFII) का उपाध्यक्ष Mr. Raja Devasish Roy, सोही निकायकी सचिवालयबाट पाल्नु भएकी Ms. Julia Raavad, र International Work Group for Indigenous Affairs (IWGIA) बाट कार्यक्रममा सहभागी बन्न आउनु भएका Mr. Christian Erniप्रति लाहुर्निप आभारी छ। त्यस्तै कार्यक्रमलाई सफल पारिदिन सहयोग गर्नुहुने अमृत योन्जन तामाङ, यशोकान्ती भट्टचन, डम्बर लोहोरुङ, डम्बर तेम्बे र नारायण निडलेखुप्रति पनि धन्यवाद व्यक्त गरिन्छ।



सो कार्यक्रम सफलतापूर्वक सम्पन्न गर्नका लागि महत्वपूर्ण सहयोगका United Nations Permanent Forum on Indigenous Issues (UNPFII), International Work Group for Indigenous Affairs (IWGIA), International Fund for Agricultural Development (IFAD), United Nations Development Programme (UNDP) लाई पनि धन्यवाद टक्र्याइन्छ । साथै कार्यक्रममा उपस्थित भई कार्यक्रमको शोभा बढाई दिनु भएकोमा राष्ट्रिय मानवअधिकार आयोगका अध्यक्ष माननीय अनुपराज शर्मा, आदिवासी जनजाति उत्थान राष्ट्रिय प्रतिष्ठानका उपाध्यक्ष चन्द्रबहादुर गुरुङ र सदस्यसचिव गोविन्द माझीप्रति लाहुर्निप कृतज्ञ छ । त्यसै गरी नेपाल आदिवासी जनजाति महासंघ, राष्ट्रिय आदिवासी जनजाति महिला महसंघलाई पनि धन्यवाद साथै सो कार्यक्रममा गरिमामय उपस्थितिका लागि माननीय सांसदहरू, विभिन्न संघसंस्थाका प्रतिनिधिहरू, बुद्धिजीविहरू, राजनीतिक दलका प्रतिनिधिहरू, विभिन्न राजदूतावासका प्रतिनिधिहरू, व्यापारिक क्षेत्रका प्रतिनिधिहरू, सरकारी निकायका प्रतिनिधिहरू, संयुक्त राष्ट्रसंघलगायत अन्तर्राष्ट्रिय निकायका प्रतिनिधिहरू र सामाजिक अभियन्ताहरूप्रति हार्दिक धन्यवाद ज्ञापन गरिन्छ ।

यस पुस्तकमा सो कार्यक्रममा प्रस्तुत कार्यपत्रहरू समावेश गरिएका छन् । कार्यक्रममा कार्यपत्र प्रस्तुत गरिदिनुहुने विभिन्न मन्त्रालयका प्रतिनिधि-कर्मचारीहरू तथा बुद्धिजीविहरूप्रति पनि लाहुर्निप आभारी छ । साथै यस पुस्तक प्रकाशनमा प्रत्यक्ष तथा परोक्ष रूपमा योगदान गर्ने सबैप्रति हामी आभार व्यक्त गर्दछौं ।

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# **Legal Framework on the Rights of Indigenous Peoples in Nepal: Analysis of the Gaps and the Way Forward**

**Toyanath Adhikari**

## **Background**

Around 370 million indigenous peoples (IPs) are found living across 70 countries worldwide.<sup>114</sup> Social, cultural, economic and political characteristics that distinguish them from the dominant societies they live in. However, there is no clear definition so far developed with regard to the IPs. The United Nations

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114 The United Nations: Indigenous People, indigenous Voices: the Fact Sheet: [http://www.un.org/esa/socdev/unpfii/documents/5session\\_factsheet1.pdf](http://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf).

itself has not been able to adopt clear definition about IPs. However, some characteristics or features have been developed to identify IPs, living from the Arctic to the South Pacific region.

The characteristics<sup>115</sup> as identified are as follows:

- Self- identification as indigenous peoples at the individual level and accepted by the community as their member,
- Historical continuity with pre-colonial and/or pre-settler societies,
- Strong link to territories and surrounding natural resources,
- Distinct social, economic or political systems,
- Distinct language, culture and beliefs,
- Form non-dominant groups of society,
- Resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.

In this regard, ILO Convention is one step ahead, it defines IPs as: “... peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.”<sup>116</sup>

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115 Ibid

116 ILO Convention No. 169, Art. 1.1 (b).



While talking about the indigenous peoples of Nepal “[i]t is difficult to divide the population of Nepal into indigenous versus non-indigenous sectors if the term “indigenous” is taken in a general sense and without regard to certain contextual factors. The country’s population overall is the product of a long and complex history of original settlement and migration both into and within the territory of present-day Nepal, and of social and political processes that are strongly rooted in that territory and date back centuries. Nepal was never colonised by a foreign Power, and it could be said that all or almost all of the Nepali population are indigenous, having an identity that is inextricably wedded to the country’s geography.”<sup>117</sup>

### **International instruments**

The main legal instruments having substantive provisions on the rights of indigenous peoples are as follows:

#### *The United Nations Declaration on the Rights of Indigenous Peoples*

The declaration sets a universal framework of minimum standards for the survival, dignity, well-being and rights of the world's indigenous peoples. The declaration affirms the basic rights of indigenous

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117 James Anaya (2009) UN Report on the situation of human rights and fundamental freedoms of indigenous people, P. 6. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/146/36/PDF/G0914636.pdf?OpenElement>.

peoples: the right to self-determination, the right to equality and non-discrimination, the right to cultural integrity, the rights over the lands, territories, and natural resources, the right to self-government and autonomy, the right to free, prior, and informed consent (FPIC).

The provisions set forth in this declaration shall be interpreted in accordance with the principles of justice, democracy, and respect for human rights, equality, non-discrimination, good governance and goodfaith.

*International Labor Organisation (ILO) Convention on the Rights of Indigenous and Tribal Peoples in dependent Countries, (No 169)<sup>118</sup>*

The Convention is the most comprehensive and advanced international legal instrument in the field of the rights of indigenous peoples. ILO Convention No. 169 also calls for state parties and the governments to consult with the peoples concerned with regard to legislative or administrative measures that may directly affect them, and establishes the right of these peoples to participate in decision-making processes regarding policies and programmes related to them.

*International Labor Organisation (ILO) Convention on the Rights of Indigenous, Tribal and Semi-Tribal Populations in Independent Countries (No. 107)*

The recognition and protection of the cultural, religious, civil and social rights of indigenous and

<sup>118</sup> Nepal ratified the ILO Convention No. 169 on 14 August 2007.

tribal populations was the primary objectives of the convention; but it became outdated as the convention 169 was adopted.

*International Covenant on Civil and Political Rights*

The Human Rights Committee has applied several provisions of International Covenant on Civil and Political Rights (ICCPR) in the specific context of indigenous peoples: All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development and the rights of national, ethnic, and linguistic minorities<sup>119</sup>; and in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.<sup>120</sup>

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119 International Covenant on Civil and Political Rights (ICCPR), Art. 1.1.

120 ICCPR General Comment No. 23, Art. 27 (Rights of Minorities): The Committee concludes that the Art. 27 relates to rights whose protection imposes specific obligations on States parties. The protection of these rights is directed towards ensuring the survival and continued development of the cultural, religious and social identity of the minorities concerned, thus enriching the fabric of society as a whole. Accordingly, the Committee observes that these rights must be protected as such and should not be confused with other personal rights conferred on one and all under the Covenant. States parties, therefore, have an obligation to ensure that the exercise of these rights is fully protected and they should indicate in their reports the measures they have adopted to

*International Covenant on Economic, Social and Cultural Rights (ICESCR)*

The Committee on Economic, Social and Cultural Rights has equally applied its provisions in the specific context of indigenous peoples: the right to self-determination, the right to adequate housing, the right to food, the right to education, the right to health, the right to water, and intellectual rights.

*Convention on the Elimination of All Forms of Racial Discrimination*

The Committee on the Elimination of Racial Discrimination has applied the Convention's provisions with a view to improving the situation of human rights of indigenous peoples through its procedures.<sup>121</sup>

*Convention on the Elimination of all Forms of Discrimination against Women*

The Committee has focused its attention to the situation of indigenous women, in particular vulnerable and disadvantaged groups.<sup>122</sup>

*Convention on the Rights of the Child*

The Committee on the Rights of the Child has applied the Convention to advance the situation of indigenous children. In particular, article 30 specifically refers to the rights of indigenous children.

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this end. <http://www.refworld.org/docid/453883fc0.html>.

121 General observation No. 23.

122 General Recommendation No. 24 (women and health).

### *Convention on the Biological Diversity*

Article 8(j) of the Convention affirms the rights of indigenous and local communities over their knowledge, innovation and practices embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and to be involved in their wider application and to participate in the equitable sharing arising from them. In order to achieve those objectives as set forth in the Convention, a set of Voluntary Guidelines for the cultural, environmental and social impact assessment regarding indigenous communities has been developed.

## **Nepal's legal and institutional framework**

### *The Constitution of Nepal*

Right to autonomy and self-rule, the proportional inclusive and participatory principles are some of the basic foundations of The Constitution of Nepal. Further, the Constitution strives for the protection and promotion of social and cultural solidarity, tolerance & harmony, and unity in diversity with recognition of the multi-lingual, multi-religious, multi-cultural and diverse regional characters of Nepal.

**Civil rights:** Article 16 of the Constitution provides for the right to live with dignity to every person. More importantly, the Constitution fully guarantees the right to equality, as the fundamental rights, to all citizens

without discrimination in the applications of general laws on grounds of origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language, ideology or on similar other grounds.

**Economic, social and cultural rights:** The Constitution<sup>123</sup> of Nepal provides for the rights to the indigenous people of Nepal to participate in the state bodies on the basis of inclusive principle. Also, the indigent citizens and citizens on the verge of extinction have the right to get special opportunities and benefits in education, health, housing, employment, food and social security for their protection, upliftment, empowerment and development.<sup>124</sup> Farmers have the right to access to lands for agro-activities, and select and protect local seeds and agro-species using traditionally.

**Collective rights:** The Constitution further recognises the status of all languages spoken as mother

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123 Art. 42(1) of the Constitution ensures that: the socially backward women, Dalit, Indigenous nationalities, Madhesi, Tharu, minorities, persons with disabilities, marginalised communities, Muslims, backward classes, gender and sexual minorities, youths, farmers, laborers, oppressed or citizens of backward regions, and indigent Khas – Arya shall have the right to participate in the state bodies on the basis of inclusive principle.

124 The Constitution of Nepal, 2015, Art. 42.2.

tongues in Nepal are the languages of the nation.<sup>125</sup> Every community of Nepal has the right to receive education in its mother tongue, for that purpose, to open and operate schools and educational institutes pursuant to law.<sup>126</sup> In addition, the Constitution explicitly recognises the right of every person and community to use their languages, and to participate in the cultural, and to preserve and promote its language, script, cultural civilisation and heritage.<sup>127</sup> Apart from those rights, the highest law of the land further provides for the policy guidance to make special provisions for equal distribution of economic, social and cultural opportunities and benefits to the Madhesi community, Muslims and backward class, and for opportunities and benefits to the indigent citizens within such communities for their protection, upliftment, empowerment and development. The Constitution clearly states that any special, protected or autonomous region for social, cultural protection or economic development can set by the federal law.<sup>128</sup>

**Political rights:** A citizen of Nepal (21 years for local bodies and 25 years for state and provincial assemblies) has the right to stand in the elections. The Constitution ensure rights in filing candidacy<sup>129</sup> by political parties for the election to the House of

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125 Ibid, Art. 6.

126 Ibid, Art. 31.5.

127 Ibid, Art. 32.

128 The Constitution of Nepal, 2015, Art. 54 (5).

129 Ibid, Art. 84(2).

Representatives under the proportional electoral system, representation of women, dalits, indigenous peoples, Khas Arya, Madhesi, Tharu, Muslims and backward region on the basis of population is ensured. The similar provision has to be followed in filling candidacy for State Legislature.<sup>130</sup>

*National Foundation for Development of Indigenous Nationalities Act*

A separate act called “The National Foundation for Development of Indigenous Nationalities Act, 2002” was enacted with a view to developing social, economic and cultural aspects of indigenous peoples, and to enhance their equal participation in the mainstream of national development. The NFDIN has been established with the following objectives:<sup>131</sup>

- (a) To formulate and implement the programmes on the areas of social, educational, economic and cultural development,
- (b) To preserve and promote the language, script, culture, literature, arts, history,
- (c) To preserve and promote the traditional knowledge, skill, technology and special knowledge, providing assistance in its vocational use.
- (d) To mainstream of overall national development of the country, developing understanding and harmony between different adivasi/janjati, castes, tribes and communities,
- (e) To support in building a just through the

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130 Ibid, Art. 176 (6).

131 NFDIN Act., 2002.



development of Adivasi/Janjati.

*Formation of Indigenous and Nationalities Commission*

Pursuant to Art.261 of the Constitution of Nepal, 2015 an Indigenous and Nationalities Commission (INC) of Nepal has to be created to look into the matters of Adivasi/Janjati people of Nepal. Pursuant to this Constitutional provision, the Government of Nepal has tabled a Bill called “Indigenous and Nationalities Commission Bill, 2073” to the Legislature-Parliament.

The main functions of the Commission as proposed in the Bill are as follows:

- (a) To make recommendations to the government of Nepal on the areas of reforming policy, law and institutions,
- (b) To submit national policy as well as programmes to the Government of Nepal for the protection and promotion of the rights of Indigenous peoples and their empowerment,
- (c) To make recommendations to the Government of Nepal with the measures to adopt for the effective implementation of policy and programmes on indigenous peoples,
- (d) To carry out monitoring and evaluation of the policy, law and programmes relating to indigenous people,
- (e) To make recommendations to the Government of Nepal on changing existing law in order to ensure proportional and inclusive representation

of indigenous people in state structures,

- (f) To prepare and execute programmes for the protection and development of language, script, culture, history, tradition, literature, and arts,
- (g) To conduct awareness programmes for the empowerment of indigenous peoples.

### *The National Inclusion Commission*

In accordance with the Art.258 of the Constitution of Nepal, a National Inclusion Commission is to be established to carry out the functions, *inter alia*, to study the status of implementation of the policies and laws adopted by the Government of Nepal for the inclusion of the indigent class, including other as provided for in the Constitution.

### **Gaps analysis**

The Constitution of Nepal, 2015 provides for a numbers of provisions on the rights of indigenous peoples: the right to protect and preserve language and culture, traditional knowledge & skills, the right to identity, the right to education, the political rights on the principle of inclusive and proportional representation on the basis of population size, lands right, special rights to participate in state bodies and structures, including in the civil service, military, police and other entities as well.

First, new enabling laws are required to be enacted to give effect to the rights as provided for in the Constitution. At the same time, existing laws should

be amended or modified to make those laws consistent with the provisions of the Constitution. Furthermore, it is the need of hour to adopt enabling law, to amend the existing legislation and administrative practices to harmonise Convention No. 169's standards, and to incorporate its basic principles.

Second, the government programmes implemented till now are found lacking or inadequate to realise the rights of the indigenous peoples as provided for in the Constitution and international legal instruments, including ILO C. No. 169 to which Nepal is a state party. Obviously, a strong commitment towards a multicultural society is a prerequisite where indigenous groups are allowed to live as distinct peoples.

Third, the institutional mechanisms such as the NFDIN and local bodies- District Development Offices (DDCs), Municipalities and Village Development Committees- are very weak as well as ineffective to advance the rights of indigenous peoples.

Fourth, the Art. 54(5) of the Constitution clearly states that any special, protected or autonomous region for social, cultural protection or economic development can set by the federal law. However, federal law to that effect has yet to enact, and the Federal Commission constituted under the Art.295 of the Constitution needs to pay attention to that provision to set a special or autonomous region for social or cultural

protection. So far, discussion and deliberation to that end has not been happened. It is a very slim chance to chalk out special or autonomous region with a view to protecting social and cultural values and traditions as envisioned in the international conventions and norms to ensure autonomy and self-rule.

Fifth, there is no simplified process of registering the intellectual property rights with regard to traditional knowledge and skills of indigenous peoples. Owing to the burdensome registration procedures in this regard, indigenous peoples are depriving of protecting their traditional skills and techniques that they possess.

In addition, funding arrangements and financial resources allocated to the programmes to promote and protect the rights of indigenous peoples are not sufficient. More importantly, activities and programmes are not consolidated as such are being implemented in a scattered manner by different institutions.

### **Way forward**

It becomes clear from the above analyses and arguments, a wide array of indigenous peoples' rights have been provided in the Constitution. Equally, enabling legislations are in a process to enact as couples of bills have been tabled to the Legislature-Parliament. However, realisation of the rights of *Adivasi Janajati* still appears in the distance. At the background of the above analysis, the following

recommendations are presented here as the way forward:

*Realisation of the right to self-determination*

Special or autonomous regions as provided in the Art. 54(4) of the Constitution need to set in order to ensure autonomy and self-rule of *Adivasi Janajati* peoples in Nepal. It may ensure the right to self-determination in political, cultural and economic life. Further, the right to self-determination of peoples is a fundamental principle in international laws. It is embodied in the Charter of the United Nations and the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The common Art.1, paragraph 1 of these Covenants states:

*"All peoples have the rights of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."*

*Promote exercising the right to participate in decision-making*

A comprehensive programme of law and policy reform should be in place to advance and implementation Nepal's commitments under ILO Convention No. 169 and the UNDRIP. All relevant government agencies, legislative officials and *Adivasi/Janajati* representatives should be part of this programme.

At the initial stage, the government of Nepal has table the Indigenous Nationalities Commission Bill, 2073 to the Legislature-Parliament. Other existing laws also need to be amended inline with the Constitution, the ILO Convention No. 169 and other human rights conventions, including the jurisprudence developed by the treaty monitoring bodies and courts of other countries.

### **Suitable measures need to be adopted**

A suitable measures need to be adopted to ensure that *Adivasi Janajati* communities are consulted, through their own representative institutions, in the planning and undertaking of any development project that affects their traditional land use patterns or access to natural resources. For that INC, the NFDIN and other institutions working in the field of indigenous peoples are required to make more functional and well-resourced to carry out their roles and functions.

#### *Affirmative action*

Special measures should be developed to effectively implement economic, social and cultural rights of *Adivasi/Janajati* peoples. In particular “[t]he cultural dimensions, in the broadest sense of the term, of the right of self-determination are identified by indigenous peoples as fundamental to the survival of indigenous peoples. Indigenous peoples attempt to prevent their heritage, values, cultural identity and way of life from being destroyed by external forces”<sup>132</sup>.

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132 IWGIA: Indigenous Affairs3/01

p. 10: <http://www.iwgia>.

### *Adequate funding*

Adequate fund should be ensured to implement programmes and activities pertaining to the ILO Convention No.169 to protect, promote and fulfill the rights of the indigenous peoples.

### **Preservation and protection**

Traditional knowledge and skills, script, language, heritage etc. of indigenous peoples should be preserved and protected. For that financial resources are made available by the government to the local communities and local government bodies. Further, Intellectual Property Law needs to be revised, making simplified procedures in registering traditional skills and techniques of indigenous peoples that they have.

### **Incorporation in the curriculum**

Subjects in regard to the rights of indigenous peoples should be incorporated in the school level curricula that held handover the knowledge and skills to the children of indigenous parents.

### **Free legal aid**

Free legal aid programmes should be conducted intensively, covering the areas in which indigenous peoples are residing in order to increase the access to justice that help protect and realise the rights of indigenous peoples from the law of the courts.

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[org/images/stories/sections/human-rights/self-determ/docs/selfdetermination.pdf](http://org/images/stories/sections/human-rights/self-determ/docs/selfdetermination.pdf).

### **Awareness raising programmes**

Awareness raising programmes should be carried out through televisions, radios, print media and other sources of information.

### **Collaboration with donors**

Development partners, donors and international organisations like ILO, UNDP should collaborate with indigenous peoples to design and implement the programmes that are conducive to implementing the principles of Convention No. 169 and the UNDRIP.

### **Impact assessment guidelines**

A set of guidelines for the cultural, environmental and social impact assessment regarding indigenous communities should be developed as outlined in the Convention on Biological Diversity (CBD) that local and indigenous peoples will be protected from the encroachment in their culture, environment and social values in implementing infrastructure projects.

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