

National Foundation for Upliftment of Aadibasi/Janjati Act, 2058 (2002)

Date of Authentication

2058-10-25 (Feb. 7, 2002)

Amendments

1. Amending some Nepal Acts relating to maintain
Gender Equality Act, 2063 (2006) 2063.7.17 (Nov. 3, 2006)
2. Republic Strengthening and Some Nepal Laws Amendment
Act, 2066 (2010)¹ 2066-10-7 (Jan. 21, 2010)

Act Number 20 of the year 2058 (2002)

An Act made to provide for the establishment of National Foundation for Upliftment of Aadibasi/Janjati

Preamble: Whereas, it is expedient to establish and operate a Foundation for upliftment of *Aadibasi/Janjati* for social, economic and cultural development and upliftment of various *Aadibasi/Janjati* of Nepal and for their equal participation in the mainstream of national development,

Now, therefore, be it enacted by the Parliament in the first year of the reign of His Majesty King Gyanendra Bir Bikram Shah Dev.

Chapter- 1

Preliminary

1. **Short title and commencement:** (1) This Act may be called as "National Foundation for upliftment of *Aadibasi/Janjati* Act, 2058 (2002)".
(2) This Act shall commence immediately.
2. **Definitions:** Unless the subject or context otherwise requires, in this Act, -
 - (a) "*Aadibasi/Janjati*" means a tribe or community as mentioned in the Schedule having its own mother language and traditional rites and customs, distinct cultural identity, distinct social structure and written or unwritten history.

¹ This Act Came into force from 2066.2.15 (May 29, 2009)

- (b) "Foundation" means the National Foundation for upliftment of *Aadibasi/Janjati* established pursuant to Section 3.
- (c) "Council" means the Governing Council of the Foundation constituted pursuant to Section 7.
- (d) "Committee" means the Executive Committee of the council constituted pursuant to Section 10.
- (e) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules made under this Act.

Chapter 2

Establishment, objectives, functions, duties

and powers of the Foundation

3. **Establishment of Foundation:** (1) A Foundation named "Foundation for upliftment of *Aadibasi/Janjati* " is hereby established.
- (2) The central office of the Foundation shall be situated inside the Kathmandu valley and the Foundation may establish its branch office in other place as per necessity.
4. **Foundation to be an autonomous body:** (1) The Foundation shall be an autonomous body corporate with perpetual succession.
- (2) The Foundation shall have its own separate seal for its activities.
- (3) The Foundation may like a person, acquire, use, sell and dispose of or manage otherwise movable, immovable property.
- (4) The Foundation may, like a person, sue or be sued by its name.
5. **Objectives of the Foundation:** The Foundation shall have the following objectives:-
- (a) To make overall upliftment of the *Aadibasi/Janjati* by formulating and implementing the programmes relating to the social, educational, economic and cultural development and upliftment of *Aadibasi/Janjati*,
 - (b) To preserve and promote the language, script, culture, literature, arts, history of the *Aadibasi/Janjati*,

- (c) To preserve and promote the traditional knowledge, skill, technology and special knowledge of the *Aadibasi/Janjati* and to provide assistance in its vocational use.
- (d) To cause the *Aadibasi/Janjati* to be participated in the mainstream of overall national development of the country by maintaining a good relation, goodwill, and harmony between different *Aadibasi/Janjati*, castes, tribes and communities,
- (e) To provide assistance in building an equitable society by making social, economic, religious and cultural development and upliftment of *Aadibasi/Janjati*.

6. **Functions, duties and powers of the Foundation:** To attain the objectives under Section 5, the functions, duties and powers of the Foundation shall be as follows:-

- (a) To formulate, implement or cause to be implemented the programme necessary for promotion and preservation of the language, script, literature, history, arts, culture, traditional skill and technology of the *Aadibasi/Janjati*,
- (b) To study and research the language, script, literature, history, arts, tradition and culture of *Aadibasi/Janjati* and develop such language, script, history arts, literature and tradition,
- (c) Subject to the prevailing law to protect or cause to be protected as prescribed the technology, skill and special knowledge that have been traditionally practiced by *Aadibasi/Janjati* as intellectual property rights of the concerned *Aadibasi/Janjati*,
- (d) So publish the history and literature of the *Aadibasi/Janjati*,
- (e) With the assistance of other bodies concerned with language, literature, to prepare and publish or cause to be published the dictionary of the language of *Aadibasi/Janjati*.
- (f) To establish archives and museum that give identity of the language, culture, history, tradition of the *Aadibasi/Janjati*,

- (g) To establish a school that teaches the language of the *Aadibasi/Janjati* at least up to primary level,
- (h) With the approval of Government of Nepal, to allow a foreign scholar who wants to study, research the language, culture, history, literature, arts, traditional technology to make study or research being affiliated with the Foundation,
- (i) To collect and manage information pertaining to *Aadibasi/Janjati*,
- (j) To conduct or cause to be conducted special programmes to enhance economic and social status of the poor and backwarded group out of the *Aadibasi/Janjati*,
- (k) To establish relation with the foreign or international associations having similar objectives and to exchange cooperation with them,
- (l) To provide consultancy service on *Aadibasi/Janjati*,
- (m) To make arrangements for broadcasting notice, news and miscellaneous programmes in the mother language of *Aadibasi/Janjati*,
- (n) To prepare list of the wealthy and poor *Aadibasi/Janjati* having regard to the social, economic and cultural differences, verities and discrepancies existing between *Aadibasi/Janjati*,
- (o) To do or cause to be done other necessary matters relating to *Aadibasi/Janjati* to attain the objectives of the Foundation.

Chapter-3

Provisions relating to Governing Council and Executive Committee

7. **Constitution of governing council** : (1) In order to discharge the functions required to be discharged on behalf of the Foundation there shall be a governing council as follows as the supreme body of the Foundation:-

- (a) Prime Minister - Chairperson
- (b) Minister/State Minister of the Ministry of Local Development - Co-Chairperson
- (c) One person nominated by the chairperson of the council from among - Deputy Chairperson

three *Aadibasi/Janjati* recommended by a Recommendation Committee formed under Sub-section (2) from among the persons who have made remarkable contribution to the upliftment of *Aadibasi/Janjati*

- ×(d) -
- ×(e) -
- (f) Vice-chancellor of the ×..... Nepal Academy or a member designated by him/her - Member
- (g) Member, National Planning Commission, (looking after the concerned matter) - Member
- (h) Secretary, Ministry of Local Development - Member
- (i) Secretary, Ministry of Finance - Member
- (j) Secretary, Ministry of Culture, Tourism and Civil Aviation - Member
- (k) Secretary, Ministry of Education and Sports - Member
- (l) Persons nominated by the co-chairperson, on recommendation of the federation of the *Aadibasi/Janjati* out of the unions and associations of the *Aadibasi/Janjati* referred to in the schedule affiliated to the federation, one person from each *Aadibasi/Janjati* and in the case of *Aadibasi/Janjati*, if there exists any, not affiliated to the federation of *Aadibasi/Janjati* one person each from such *Aadibasi/Janjati* - Member
- (m) Ten women nominated by Government of Nepal two from each development region from among the *Aadibasi/Janjati* women who have - Member

× Omitted by Strengthening the Republic and Some Nepal Laws Amendment Act, 2066

contributed to the upliftment of the *Aadibasi/Janjati*

- (n) Two persons nominated by Government of Nepal from among the tradesman, industrialists and donor of the *Aadibasi/Janjati* community - Member
- (o) Members of the executive committee - Member
- (p) Person nominated by the co-chairperson of the council on recommendation of the deputy-chairperson of the council from among the persons of *Aadibasi/Janjati* who have made special contribution to the upliftment of *Aadibasi/Janjati* - Member-secretary

(2) There shall be a recommendation committee under the coordinationship of the co-chairperson of the council consisting of one person designated by the federation of *Aadibasi/Janjati* and one person by *Aadibasi/Janjati* Council to make recommendation for the nomination of deputy chairperson pursuant to clause (c) of Sub-section (1).

(3) The tenure of the deputy chairperson, member and member-secretary nominated pursuant to clause (c), (l), (m), (n), and (p) of Sub-section (1) shall be of four years and they may be appointed for one time again.

^{3c}

(4) If the Council considers it necessary, it may invite national or foreign experts to take part in the meeting of the council as an observer.

8. Meeting and decision of council: (1) The meeting of the Council shall take place twice a year on such date, time and place as specified by the chairperson of the Council.

(2) The Chairperson of the Council shall preside over the meeting of the council. In his/her absence, the co-chairperson and in the absence even of him/her the Deputy Chairperson of the Council shall preside over the meeting of the Council.

^{3c} Deleted by Amending Some Nepal Acts to maintain Gender Equality Act, 2063

(3) The presence of at least fifty percent member out of total members of the Council shall be deemed to have constituted the quorum for the meeting.

(4) The decision of majority of vote shall be deemed to be the decision of the council. In case of tie of votes in the meeting the presiding person may exercise a casting vote.

(5) The decision of the meeting of the Council shall be certified by the member-secretary.

(6) Other procedures relating to the meeting shall be as determined by the council itself.

9. Functions, duties and powers of the council: (1) The functions to be performed work to be done and power to be exercised by the Foundation under this Act shall be performed and exercised by the council.

(2) Without prejudice to the generality of Sub-section (1), the functions, duties and powers of the council shall be as follows:-

- (a) To formulate the policy of various programmes and projects to be operated by the Foundation,
- (b) To approve the annual and periodic plan of the Foundation,
- (c) To approve annual budget of the Foundation,
- (d) To evaluate the programmes and projects operated by the Foundation,
- (e) To approve the by-rules to be framed by the Foundation,
- (f) To perform other functions as prescribed.

10. Constitution of Executive Committee: (1) In order to discharge the daily work of the Council subject to this Act or Rules made thereunder and the general directions of the Foundation there shall be an Executive Committee as follows :-

- (a) Deputy chairperson of the council - Chairperson
- (b) Two persons including one woman -
nominated by the chairperson on

recommendation of the co-chairperson of the council from among at least five members including one woman recommended by a three member Recommendation Committee from among the experts who have made special study, research on *Aadibasi/Janjati* or the persons from among the *Aadibasi/Janjati* who have made remarkable contribution in the upliftment of *Aadibasi/Janjati*.

Provided that, the Recommendation Committee shall not recommend the name from among themselves

- (c) An officer at least of joint-secretary level of the Ministry of Local Development - Member designated by that Ministry
- (d) Member secretary of the Council - Member-Secretary

(2) The tenure of the office of the members referred to in Clause (b) of Sub-section (1) shall be of Four years.

11. Meeting and decision of committee: (1) The meeting of the committee shall take place as per necessity on such date, time and place specified by the chairperson of the committee.

(2) The chairperson of the committee shall preside over the meeting of the committee and in his/her absence; the senior most member in term of nomination from among the members nominated shall preside over the meeting.

(3) National or foreign experts and a person concerned with the programme and project of the Foundation may be invited in the meeting of the committee as per necessity.

(4) Other procedures concerning the meeting of the committee shall be as prescribed.

12. Functions, duties and powers of the committee: In addition to the functions mentioned elsewhere in this Act, the functions, duties and powers of the committee shall be as follows:-

- (a) To implement or cause to be implemented the decision of the Council,
- (b) To prepare periodic and annual programmes, projects and budget of the Foundation and submit to the Council,
- (c) To manage and operate the fund of the Foundation,
- (d) To have the account of the Foundation audited and to submit the report thereof to the Council,
- (e) To prepare draft of the Bye-laws to be framed by the Foundation and submit to the council,
- (f) To do or cause to be done other functions as prescribed to attain the objectives of the Foundation subject to the direction given from time to time by the Council.

13. Provision concerning the conditions of service of the Deputy Chairperson Council: (1) The deputy chairperson of the Foundation shall be the full time chief executive officer of the Foundation.

(2) The remuneration, facilities and other conditions of service of the Deputy Chairperson shall be as prescribed.

14. Provision concerning the conditions of service of member secretary of the council: (1) The Member-Secretary of the council shall be the full time executive officer of the Foundation and he/she shall function under general direction of the Deputy Chairperson.

(2) The remuneration, facilities and other conditions of the service of the Member-Secretary of the Council shall be as prescribed.

15. Subcommittee or task force may be formed: (1) The Council or Committee may form a Subcommittee or Task Force as per necessity.

(2) The functions, duties, powers, procedure and facility of the Subcommittee or Task Force formed under Sub-section (1) shall be as specified by the Council or Committee.

Chapter-4

Fund, account and audit of the Foundation

16. Fund of the Foundation: (1) The Foundation shall have its separate fund.

(2) The fund shall consist of the following amounts:-

- (a) Amount received from Government of Nepal,
- (b) Loan amount received from a foreign government or international union and association,
- (c) Donation, assistance, grant or any other amount to be received from a foreign government or international union and association or person,
- (d) Amount received as donation, assistance from a person or association,
- (e) Amount received for the service made available by the Foundation,
- (f) Amount received from any other sources.

(3) The Foundation shall be required to obtain the approval of Government of Nepal to receive the amount under Clause (b) of Sub-section (2) and shall be required to give pre information to Government of Nepal to receive the amount under Clause (c).

(4) All expenses to be incurred by the Foundation shall be borne from the fund under Sub-section (1).

(5) All amounts to be received by the Foundation shall be deposited into a bank by opening an account in the name of the Foundation in such bank.

(6) The operation of the account of the fund of Foundation shall be as prescribed.

17. Account and audit thereof: (1) The Foundation shall maintain accounts of its income and expenditure as per the prevailing law.

(2) The audit of the Foundation shall be performed by the Department of the Auditor General.

Chapter-5

Miscellaneous

18. Act and action not to be deemed illegal: Notwithstanding anything contained in other sections of this Act, an act and action carried out when the position of a member of the council or committee was vacant shall not be deemed illegal on account of that ground only.

19. Delegation of power : The Council may delegate all or some of the powers conferred to it by this Act or Rules or Bye-laws made there under to the committee or chairperson of the committee or Member Secretary of the Committee on the condition that it is exercised according to the conditions specified by it.

(2) The committee may delegate all or some of the powers conferred to it by this Act or Rules made there under to a Member or Member Secretary or an officer employee of the Committee.

20. Annual report to be submitted: (1) The Foundation shall be required to submit an annual report of its activities within three months of the expiry of every fiscal year to Government of Nepal

(2) The report under Sub-section (1) shall contain, *inter alia*, description in brief of the work performed within one year by the Foundation, Foundation's financial status, statement of expenditure, programme or project completed and cost thereof and the problems faced by the Foundation.

(3) The Foundation shall publish the main content of the report under Sub-section (1).

21. Appointment of the employees of the Foundation: (1) The Foundation may appoint the employees as prescribed.

(2) The appointment of the employees of the Foundation and conditions of their service shall be as provided for in the Bye-laws framed by the Council.

22. Government of Nepal may issue direction: Government of Nepal may issue necessary directions to the Foundation.

23. Liaison with Government of Nepal: The Foundation shall liaise with Government of Nepal through the Ministry of Local Development.

24. Power to make Rule and Bye-laws: (1) The Council may make necessary Rules to implement the objectives of this Act.

(2) Subject to this Act and Rules made there under, the Council may make bye-laws in the following matters and such Bye-laws shall come into force from the date on which Government of Nepal approves them:-

- (a) Internal work operation,
- (b) Appointment of employees and conditions of service,
- (c) Fiscal administration.

25. Alternation in Schedule: Government of Nepal, on the recommendation of the Council, may alter the Schedule by publishing a notice in the Nepal Gazette.

26. Repeal and saving: The National *Aadibasi/Janjati* Development Committee (Formation) Order, 2054 (1997) is, hereby, repealed and all movable and immovable property and right and title of the National *Aadibasi/Janjati* Development Committee formed under that order shall be transferred to the Foundation.

(2) All contract, agreement, lease concluded with the National *Aadibasi/Janjati* Development Committee formed pursuant to Sub-section (1) shall be deemed to have been concluded with the Foundation and all act and action

carried out by that Committee shall be deemed to have been carried out by the Foundation.

NEPAL LAW COMMISSION

Schedule
(Relating to Clause (a) of Section 2)

1. Kisan 2. Kumal 3. Kushwadiya 4. Kushunda 5. Gangai 6. Gurung 7. Chepang 8. Chhantyal
9. Chhaintan 10. Jirel 11. Jhangad 12. Dolpo 13. Tangbe 14. Tajpuriya 15. Tamang
16. TinGaunleThakali 17. Topkegola 18. Thakali 19. Thami 20. Tharu 21. Thudam
22. Danuwar 23. Darai 24. Dura 25. Dhanuk (Rajbansi) 26. Dhimal 27. Newar 28. Pahari
29. Free 30. Bankariya 31. Baramo 32. Bahra Gaunle 33. Bote 34. Bhujel 35. Bhote 36. Magar
37. Majhi 38. Marphali Thakali 39. Mugali 40. Meche (bodo) 41. Yakkha 42. Rai 43. Raute
44. Rajbansi (Koch) 45. Rajhi 46. Larke 47. Limbu 48. Lepcha 49. Lhopa 50. Lhomi
(Shingsawa) 51. Walung 52. Byasi 53. Sherpa 54. Satar (Santhal) 55. Siyar 56. Sunuwar
57. Surel 58. Hayu 59. Hyolmo