

National Foundation for Development of Indigenous Nationalities 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) - 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 Development of Indigenous Nationalities.

Preamble

Whereas, it is expedient to establish and operate a Foundation for Development of Indigenous Nationalities for social, economic and cultural development and upliftment of various Indigenous Nationalities of Nepal and for their equal participation in the mainstream of national development, 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 Development of Indigenous Nationalities Act, 2058 (2002)".
- (2) This Act shall commence immediately.

2. Definitions: Unless the subject or context otherwise requires, in this Act,

- (a) "Indigenous Nationalities" 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.
- (b) "Foundation" means the National Foundation for Development of Indigenous Nationalities 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 "National foundation for Development of Indigenous Nationalities" 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 development of the indigenous nationalities by formulating and implementing programs relating to the social, educational, economic and cultural development and upliftment of indigenous nationalities;
- b) To preserve and promote the languages, scripts, cultures, arts, and histories of the indigenous nationalities;
- c) To preserve and promote the traditional knowledge, skills, technologies and special knowledge of the indigenous nationalities and to provide assistance in its vocational use;
- d) To cause the indigenous nationalities to be participate in the mainstream of overall national development of the country by maintaining a good relation, goodwill and harmony between different indigenous groups, castes, tribes and religious communities of Nepal; and
- e) To provide assistance in building an equitable society by making social, economic, religious and cultural development and upliftment of indigenous nationalities.

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) Formulate and implement or cause to be implemented the programme necessary for promotion and preservation of the languages, scripts, literatures, histories, arts, cultures, traditional skills and technologies of the indigenous nationalities;
- b) Study and research the languages, scripts, literatures, histories, arts, traditions and cultures of the indigenous nationalities 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 indigenous nationalities, as intellectual property rights of the concerned Indigenous nationalities;
- d) Publish the histories and literatures of the indigenous nationalities and other works considered important;
- e) With the assistance of other bodies concerned with language and literature, make preparations to publish dictionaries of different indigenous language;
- f) Establish archives and museums that would give the true identities of the languages, cultures, histories, traditions and other identities closely associated with indigenous nationalities;
- g) Establish schools that would teach the language of indigenous communities, at least up to the primary level;
- h) Allow interested foreign scholars to study and research the languages, cultures, histories, literatures, arts, traditional technologies of the indigenous groups (with permission to study being subject to prior approval from the Government of Nepal);
- i) Collect, manage and disseminate information important to the indigenous communities;
- j) Undertake special programs aimed at enhancing the economic and social status of the poor and the marginalized groups among the indigenous nationalities;
- k) Establish friendly relations with international associations with similar objectives as well as exchange relevant information beneficial to both parties;
- l) Provide consultancy services on the issues of indigenous nationalities; and
- m) Prepare material for broadcasting notices, news and other programs in the different languages of the indigenous nationalities.
- n) To prepare list of the wealthy and poor indigenous nationalities having regard to the social, economic and cultural differences, verities and discrepancies existing between indigenous nationalities;
- o) To do or cause to be done other necessary matters relating to indigenous nationalities 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 three indigenous nationalities recommended by a Recommendation Committee formed under Sub-section 2 from among the persons who have made remarkable contribution to the development of indigenous nationalities - Vice-Chairperson
 - (d) Vice-chancellor of the Nepal Academy or a member designated by him/her-Member
 - (e) Member, National Planning Commission, (looking after the concerned matter)- Member
 - (f) Secretary, Ministry of Local Development - Member
 - (g) Secretary, Ministry of Finance - Member
 - (h) Secretary, Ministry of Culture, Tourism and Civil Aviation - Member
 - (i) Secretary, Ministry of Education and Sports - Member
 - (j) Persons nominated by the co-chairperson, on recommendation of the federation of the indigenous nationalities out of the unions and associations of the indigenous nationalities referred to in the schedule affiliated to the federation, one person from each indigenous nationalities and in the case of indigenous nationalities, if there exists any, not affiliated to the federation of indigenous nationalities one person each from such indigenous nationalities - Member
 - (k) Ten women nominated by Government of Nepal two from each development region form among the indigenous nationalities women - Member
 - (l) Two persons nominated by Government of Nepal from among the tradesman, industrialists and donor of the indigenous nationalities community - Member
 - (m) Members of the executive committee - Member
 - (n) Person nominated by the co-chairperson of the council on recommendation of the deputy chairperson of the council from among the persons of indigenous nationalities who have made special contribution to the upliftment of indigenous nationalities - Member secretary
- (2) There shall be a recommendation committee under the co-ordinationship of the co-chairperson of the council consisting of one person designated by the federation of indigenous nationalities and one person by indigenous nationalities 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), (j), (k), (l), and (n) of Sub-section (1) shall be of four years and they may be appointed for one time again.
- (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.
- (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 there under and the general directions of the Foundation there shall be an Executive Committee as follows:

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 the 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 there of:

- (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:

- (1) 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.

21. Appointment of the employees of the Foundation:

- (1) The Foundation may appoint the employees as prescribe.
- (2) The appointment of the employees of the Foundation and conditions of their service shall be as provided for in the By-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 By-laws in the following matters and such By-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 indigenous nationalities development committee (Formation) Order, 2054 (1997) is, hereby, repealed and all movable and immovable property and right and title of the National indigenous nationalities development committee formed under that order shall be transferred to the Foundation.

(2) All contract, agreement, lease concluded with the National Indigenous Nationalities 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.

Schedule

(Relating to Clause (a) of Section 2)

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