

DIALOGUE FOR PEACEFUL RESOLUTION OF MADHESHI MOVEMENT

-- **Shree Govind Shah**
3 February 2007

Madheshi people staged protests and demonstrations since 19 January 2007 primarily under the guidance and leadership of Madheshi Jan Adhikar Forum. Other political organizations such as Sadbhavana Party (A) and Jantantrik Mukti Morcha were also involved in Madheshi movement, which is seen by many people and civil societies as ANDOLAN III. People from rural areas and women in large numbers are taking part in this mass movement, never seen in the history of Madhesh. If such a mass movement would have been taken place in Kathmandu, the government would have been either changed or removed by the people. Government mechanism does not seem to be very serious and people from Tarai have no faith on the present government. This would invariably affect democratic movement in the country.

Madheshi people are fighting for their NATURAL RIGHTS and survival in Nepal; equal rights and opportunities in all aspects of social, political, and economic life. The demands are as follows:

- a) Federal system of governance and regional autonomy with rights to self determination,**
- b) Proportional representation according to population in the Constituent Assembly,**
- c) Redelineation of the Constituencies, and**
- d) Representation of Madheshi people in State organs and programmes during the transition period**

These demands are genuine, very rational and legitimate.

Movement got support from Human Rights organizations, UN Mission, and the international community in Nepal. The State used police force brutally and 19 Madheshi people were killed and more than 550 people were injured till 3 February 2007. Some of the injured persons are in critical stage.

The State was put under pressure and the Prime Minister on 31 January expressed commitment for a federal system of governance and some increment to the number of electoral constituencies in Tarai region. He made a provision for forming a committee to hold dialogue with the groups staging protests and demonstrations. Most political parties such as UML, NC (P), CP Maoist, Prajatantra Party and Madheshi Jan Adhikar Forum as well as Human Rights organizations and Civil Societies have felt that the Prime Minister's commitment could not address the basic political issues raised by Madheshi people. However, the PM's address has opened door for dialogue, which has been accepted by some of the groups staging protests.

On 2 February, government formed a 3-member "Talk Team" led by Mr. Mahant Thakur, Minister for Agriculture and Cooperatives to hold dialogue with the agitating parties in Tarai, the other members being Gyanendra Bahadur Karki (NC-Democratic) and Rajendra Pande (UML). The affected Tarai political groups are still working on forming a cohesive "Talk Team".

We assume that the Tarai Talk Team would discuss the above mentioned four demands in the in the dialogue with the government Team thoroughly and concisely. However, they would need technical support from intellectual groups and civil societies during the dialogue process. We have to make the Tarai Talk Team ‘Do it for people’.

The components of the four major issues are discussed here, which would help the groups in the dialogue process. This is not complete and I request your input to finalise it. This will be given to the Talk Team and widely circulated for knowledge and information. We would not be in the Talk Team and but we can press both the Talk Teams during dialogue; we have to influence them for acceptable outcomes.

Working Paper on Demands by Madheshi Movement

TALKS MODALITY

The first and the foremost thing is the Talk Modality. All the concerned groups involved in protests and demonstrations are to be included in all forms of dialogue. This should include:

- a) Concerned groups involved in Madheshi Movement such as Madheshi Jan Adhikar Forum, Jantantrik Tarai Mukti Morcha, Sadbhavna Party (A)
- b) Representatives from Civil Societies
- c) **Observers:** International IDEA Sweden (Institute of Democracy and Electoral Assistance) - working in the area of constituency, democracy etc; technical assistance; UN system – assistance for peace process.

Federal system of governance,

Demand I: Establishment of Federal System of Governance and Regional Autonomy with Rights to Self Determination

We can seek advice from various national and international bodies.

The following components of Demand – 1 are to be discussed and agreed by both government and Tarai groups.

1. Establishment of central government at national level and a number of provincial governments of common nationality.
2. A “Madhesh Pradesh” in the Tarai ecological region extending from Mechi River in the east to Mahakali River in the west will be established as a province under the federal system of governance in Nepal.
3. Distribution of powers is an essential feature of federalism. The central national government would exercise power over some issues and the provincial governments would exercise power over other issues. Powers among the three branches of government – legislative, executive, and

judicial are to be separated between national government and provincial governments. Both the Central and Provincial governments shall have three independent branches of government: Legislative, Judiciary and Executive. The framework has to be discussed and agreed by both the Teams. Some of the framework examples are given in Table 1.

Table 1. Powers distribution between national and provincial governments
(This Table is not complete)

SN	National government	Provincial government
	A. Legislative	
	The Legislative body at Central and Provincial level shall function independently.	
	Defence, national security, and foreign policy	Legislative shall function independently except in matters related to defence and foreign policy
		Provincial government shall participate in the administration of all sectors of governance except foreign affairs and defence.
	B. Executive	
	The executive bodies at central and provincial level shall function independently, but with necessary inter-linkages and coordination between them.	
1	National fiscal policy	Provincial fiscal policy
2.	National economic policy; National Planning	Provincial economic policy; provincial planning; regional autonomous policy
3.	National policy on natural and cultural resources; water management for hydropower generation, river basin transfer	Use and management of natural and cultural resources; water for irrigation; land management for increasing agriculture production; forest management; authority to negotiate with other provinces, and bilateral and multilateral agencies.
4.	National education policy	Provincial education policy
5.	National Public service commission	Provincial public service commission
6.	Revenue collection and management	
	Joint Revenue Commission to be established to work on modalities for provincial and national distribution and management of revenue including hydropower and mining	
7.	National transport and communication, and civil aviation	Provincial transport and communication
8.	Policy on industry and commerce	Actions on provincial industrial and commerce development
9.	National and provincial commissions on police management, judicial management, public service, education, anti-corruption and good governance, indigenous, dalit and disadvantaged communities	
	B. Judicial	
	The judicial body at Central and Provincial level shall function independently.	
1.	Establishment of constitutional court at the national level to interpret constitutional arrangements regarding provinces and central government	Provincial judicial Council/Commission will have jurisdiction over provincial court of Appeal, zonal court and district courts and other administrative bodies in the province

2.	Management of High courts and Supreme courts	Control over lower courts
3.	Independent commission on the relationship with the national government and other provinces	

Structure of Provinces

1. Each province will have few zones made up of a group of districts. Zones shall be formed based on language, geography and population.
2. The administrative boundaries of all the existing districts shall be reviewed and realigned on the basis of geography, ecology, topography, population and linguistic characteristics.

Structure of Madhesh Pradesh

1. The Madhesh Pradesh will comprise of five administrative zones, established on the basis of language, geography and population (Table 2). Each zone will have a total population in the range of 2.0 – 2.5 million, and will consist of a group of administrative districts.
2. New administrative districts shall be established by realigning the boundaries of the existing districts based on geography, ecology, topography, population and linguistic characteristics. The hill and mountain area in the existing 20 administrative Tarai districts shall be excluded, and made part of other provinces. Similarly, Tarai ecological area of other districts will be included in the realigned Madhesh districts e.g. Udaypur district.
3. The local government at district level shall be based on decentralized principles of governance, similar to the existing provisions of the Local Governance Act 2058 BS (2002).

Table 2: Proposed Zone and Districts of the Madhesh Pradesh

Zone No.	Districts ^{1/}	Population ^{2/} ('000)	Total Area ^{3/} ('000ha)	Population figures in '000
				Siwalik hills and mountain areas ('000ha)
I.	1. Jhapa	688.2	156.9	10.3 (6.6%)
	2. Morang	843.2	184.7	35.4 (19.2%)
	3. Sunsari	625.6	127.1	11.3 (8.9%)
	Sub Total	2,157.0	468.7	57.0 (27.1%)
II	4. Saptari	570.3	135.9	31.6 (23.3%)
	5. Siraha	572.4	122.8	27.8 (22.6%)
	6. Dhanusha	671.4	121.8	31.8 (26.1%)
	7. Mahottari	553.5	98.8	15.6 (15.8%)
	Sub Total	2,367.7	479.3	106.8 (22.3%)
III	8. Sarlahi	635.7	126.3	17.6 (13.9%)
	9. Rauthat	545.1	103.7	7.8 (7.5%)
	10. Bara	559.1	129.6	17.5 (13.5%)

	11. Parsa	497.2	139.0	48.5 (34.9%)
	12. Chitwan	472.1	219.5	113.0 (51.5%)
	Sub Total	2,709.2	718.1	204.4 (28.5%)
IV	13. Nawalparasi	562.9	201.6	156.3 (77.5%)
	14. Rupandehi	708.4	141.4	22.4 (15.1%)
	15. Kapilvastu	482.0	175.7	28.4 (16.2%)
	16. Deukhuri Dang	462.4	297.3	194.0 (65.2%)
	Sub Total	2,215.7	816.0	401.1 (49.2%)
V.	17. Banke	385.8	236.0	119.8 (50.8%)
	18. Bardiya	382.7	203.6	63.6 (31.2%)
	19. Kailali	616.7	324.8	132.0 (31.6%)
	20. Kanchanpur	377.9	163.7	19.5 (11.9%)
	Sub Total	1,763.1	928.1	334.9 (36.1)
	TOTAL	11,200.9	3,410.2	1,104.2 (32.4%)

Source: Shah (2006)

^{1/} Currently, there are 20 administrative districts in the Tarai region

^{2/} Population as per 2001 census

^{3/} ISR&RC District Development Profile of Nepal

Demand 2: Proportional representation according to population in the Constituent Assembly

1. Both the government and the Madheshi movement groups should agree on proportional representation system based on population in the forthcoming Constituent Assembly election.
2. Consideration could be made to elect one person each from the six Himal districts such as Manag, Mustang, Dolpa, Humla, Mugu and Rasuwa for the Constituent Assembly; these districts are primarily the habitat of Janjati ethnic community. These districts had population ranging from 9,587 (Manag) to 43, 937 (Mugu) in 2001.

Demand 3: Redelineation of the Constituencies

1. Currently, the average population per constituency in mountain districts and Tarai districts is about 73,000 and 127,500 respectively. This drastically reduces the number of parliamentarians from Tarai administrative districts. As about 48% of the country's total population live in 20 Tarai districts, 48% of the total constituent assembly members should be from Tarai districts.
2. Both the government and the Madheshi movement groups should agree on Redelineation of the constituencies based on population for the forthcoming Constituent Assembly election. About 70,000 population should be considered for each constituency. About 300-310 constituencies could be delineated.
3. Ethnic communities e.g. indigenous Janjati, Dalits and Muslim should be represented in the Constituent Assembly on the basis of their population.

Demand 4: Representation of Madheshi people in State organs and programmes during the transition period

1. Madheshi people including Janjati, Dalit, and Muslim have been, in practice, excluded in the socio-economic, political governance, decision-making and policy planning processes, and in major state organs. Similarly, the donors and the international agencies/ organisations have mostly excluded development activities in areas where Madheshi people have majority. There would be a transition period of about 3 years before the provinces under the federal system would start functioning. Both the government and the Madhesh Movement groups should agree on including Madheshi people in all state organs and activities.

2. Madheshi should be explicitly included in the exclusionary group. Currently, government's commitment is only to Janjati, Dalit and women groups.

3. Inclusion in practice of Madheshi people in all kinds of State approved programmes and opportunities. Both the government and the Madhesh Movement groups should agree on penalties for non-compliance.

4. Government should immediately redirect donor communities, international agencies, and INGOs to develop and implement socio-economic development programmes in Tarai districts.

5. Both the government and the Madhesh Movement groups should agree on declaring and respecting all the Madheshi people killed during the Madheshi Movement as "Martyrs". The government should compensation and rehabilitate the martyr's families under an acceptable package.

6. Government should bear all the expenses for treating all the injured persons now hospitalised in Nepal and India. Government should immediately pass an 'order' and direct the concerned ministries to comply. Some of the injured persons are amputated and some of them would not be able to work for their living as normal person. Government should compensation and rehabilitate them and their families under an acceptable package.

7. Government should immediately and effectively stop use of brutal police force against the protests and demonstrations and immediately remove curfew in Tarai districts.

8. The government should form a judicial commission to investigate the killings in Tarai and perpetrators should be brought to justice.

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