

Memorandum of Agreement on the Gorkha Territorial Administration

18th July 2011

Whereas the Gorkha Janamukti Morcha (GJM) has been demanding for quite sometime past a separate State of Gorkhaland for the hill areas of Darjeeling district including some areas of Siliguri Terai and Dooars (hereinafter referred to as the Region); and

Whereas both the Government of India and the Government of West Bengal have repeatedly emphasized the need for keeping the region as an integral part of the State of West Bengal; and

Whereas after several rounds of tripartite meetings at the ministerial and at the official levels, the GJM, while not dropping their demand for a separate State of Gorkhaland, has agreed to the setting up of an autonomous Body (hereinafter referred to as the new Body) empowered with administrative, financial and executive powers in regard to various subjects to be transferred to the said Body for the development of the region and restoration of peace and normalcy there at; and

Whereas the objective of this Agreement is to establish an autonomous self governing Body to administer the region so that the socio-economic, infrastructural, educational, cultural, and linguistic, development is expedited and the ethnic identity of Gorkhas established, thereby achieving all round development of the people of the region; and

Whereas all issues including issues relating to transfer of subjects to the new Body have been agreed in various tripartite meetings at the official level; and

Whereas after several round of Tripartite discussions between the Government of India, the Government of West Bengal and the GJM, an agreement was reached in respect of all the issues;

Now, therefore, the Government of India, the Government of West Bengal and the GJM, keeping on record the demand of the GJM for a separate State of Gorkhaland, agree as follows:-

- 1) An autonomous Body, which shall be called the Gorkhaland Territorial Administration (GTA), will be formed through direct election. A Bill for this purpose will be introduced in the West Bengal Legislative Assembly;
- 2) While under the provisions of the Constitution transfer of legislative powers to the new Body is not possible, the power to frame rules / regulations under the State Acts to control, regulate and administer the departments / offices and subjects transferred to the new Body will be conferred upon the new Body;
- 3) The administrative, executive and financial powers in respect of the subjects transferred will be vested in such a way that the new Body may function in an autonomous and effective way;
- 4) The subjects alongwith all Departments / Offices to be transferred to the new Body is appended as Annexure – 'A'.
- 5) The area of the Gorkhaland Territorial Administration shall comprise the areas of the entire sub-divisions of Darjeeling, Kalimpong with extended areas of Kurseong. In regard to transfer of additional areas of Siliguri Terai and Dooars to the new Body, a High-Powered Committee will be formed comprising four representatives of GJM, three representatives of the State Government (one

from the Home Department; the District Magistrate, Darjeeling; the District Magistrate, Jalpaiguri); the Director of Census Operations representing Government of India, apart from the Chairman of the Committee to be appointed by the State Government. The Chairperson of the Board of Administrators, DGHC will be the convener of this Committee. The Committee will look into the question of identification of additional areas in Siliguri Terai and Dooars that may be transferred to the new Body, having regard to their compactness, contiguity, homogeneity, ground level situation and other relevant factors.

The Committee will be expected to give its recommendations within a short period, preferably within six months of its constitution.

6) The work of this High-Powered Committee will run parallel to the electoral process which will be based on the existing area delimitation. However, the empowering statute will have a provision for transfer of the additional areas from Siliguri Terai and Dooars that may be agreed upon, based on the recommendation of this Committee.

7) In regard to transfer of all forests including reserved forest, it was agreed that the State Government will make a reference to the Central Government on the issue of reserved forest as the power delegated to the State Government under the Central statute cannot be delegated to any other authority straightaway. However, all offices catering to the unreserved forests under the jurisdiction of GTA would also be transferred to GTA.

8) Regarding Tribal status to Gorkhas except the Scheduled Castes, the GJM or any organisation representing the Gorkhas will make an application to the Backward Classes Welfare Department of the State Government, which is the authority to process such claims. The Department, upon receiving such application supported by necessary documents will conduct a study through the Cultural Research Institute, Kolkata. After examination by the Department, the matter will be referred to the National Commission for Scheduled Tribes. The recommendations already submitted to the National Commission will be followed up by the State Government. The Government of India will consider for granting ST status to all the Gorkhas excepting SC.

9) In regard to regularization of all ad-hoc, casual, daily wage workers of DGHC, regularization by way of outright absorption is not feasible due to the current legal position as enunciated by the Hon'ble Supreme Court. However, those employees who have put in 10 years of continuous service would be guided by the Finance Department's order of 23rd April, 2010. Those outside this ambit would be extended an enhancement in wages. This would be equivalent to 75% of the remuneration admissible under the order of the Finance Department subject to a minimum of 5,000/- per month for those who have not completed 10 years of continuous service. As and when they complete 10 years of continuous service, they will be eligible for the full benefit in terms of the order of 23rd April, 2010. The employees will, however, have the liberty to apply for normal recruitment to any other posts of State Government. It was also agreed that the State Government will make necessary financial provisions for bearing the additional non-plan expenditure for this purpose.

10) There shall be a GTA Sabha for the GTA. There shall be a Chairman and Deputy Chairman to conduct the business of Council. The GTA Sabha shall consist of forty- five elected members and five members to be nominated by the Governor to give representation to members of SC, ST, women, and minority communities. The M.Ps, M.L.As, and Chairpersons of municipality(s) of the region shall be Ex-officio Members to this GTA Sabha. The term of the GTA shall be five years.

- 11) The Executive Body shall consist of a Chief Executive who will nominate fourteen members out of the elected / nominated members as Executive Member. One of them shall be the Deputy Chief to be nominated by the Chief Executive.
- 12) Every member of the GTA shall before taking seat make and subscribe before the Governor or one of the elected members appointed in that behalf by him an oath or affirmation. The Chief Executive shall be administered an oath or affirmation by the Governor.
- 13) There shall be a Principal Secretary of the GTA, who shall be of the rank of the Principal Secretary/Secretary to the State Government and who shall be selected by the Chief Executive from the panel sent by the State Government and shall be paid from the GTA Fund such salaries and allowances as may be fixed by the State Government. The Principal Secretary once deputed to the GTA shall not be transferred for a period of at least two years without the consent of the GTA.
- 14) The Government of India and the Government of West Bengal will provide all possible assistance to the GTA for the overall development of the region. The Government of India will provide financial assistance of Rs. 200 crore (Rupees Two Hundred Crore) per annum for 3 years for projects to develop the socio-economic infrastructure in GTA over and above the normal plan assistance to the State of West Bengal. A list of projects which may be considered to be taken up by the GTA is at Annexure 'B1'. List of projects to be separately taken up by the GTA with the State/Central Government is at 'B2'.
- 15) The Government of India/ State Government will provide one time financial assistance required for development of administrative infrastructure viz., GTA Sabha House, Secretariat Complex and the residential quarters for the elected members of GTA and the senior officers.
- 16) The allocation sanctioned in the budget of GTA and all funds sanctioned by the State or the Union Government which remain unspent at the close of the financial year shall be taken into account for the purpose of providing additional resources in the Budget of the following year or years and the fund requirements will be met on a yearly basis.
- 17) The Government of West Bengal shall provide formula based plan fund with 60 per cent weightage on population and the balance weightage on area backwardness, hill areas and border areas in two equal installments every year for executing development works.
- 18) The Government of West Bengal shall provide Non-plan grant including provisions for bearing the additional Non-plan expenditure for existing employees payable in two installments in respect of the offices / departments transferred to GTA.
- 19) The fund received from the Government of India shall not be diverted and the State Government shall release the fund in time.
- 20) The GTA will have the power of creating Group B, C and D posts with the approval of Governor. The recruitment to Group B, C and D posts will be through a Subordinate Service Selection Board to be set up for this purpose.
- 21) The State Public Service Commission shall be consulted for the recruitment of Group 'A' officers.
- 22) The State Government will set-up a separate School Service Commission, College Service Commission; open an office of the Regional Pension and Provident Directorate; and set up an office for Registration of land, building etc., marriage, society etc. in the GTA area, subject to extant rules and regulations.

23) The Governor of West Bengal shall obtain a report on the functioning of the GTA and cause that report to be laid on the table of the West Bengal Legislative Assembly annually.

24) The Government of West Bengal will initiate action to re-organize / re-constitute the territorial jurisdictions of sub-divisions and blocks.

25) The GTA, once established, will separately take up the issues relating to grant of incentives, subsidies, waiver of taxes and tariff and other benefits as appropriate to the region's backwardness, with the Central and State Governments.

26) A three-tier Panchayat will be constituted by elections in the GTA region, subject to the provisions of Part IX of the Constitution of India. Notwithstanding anything contained in the West Bengal Panchayat Act 1973, or the West Bengal Municipal Act, 1993, the GTA shall exercise general powers of supervision over the Panchayats and the Municipalities.

27) Since the formation of new authority will take some time and since the developmental works in the hills, which have already suffered badly, cannot be allowed to suffer further, there will be a Board of Administrators in DGHC which would be fully empowered to exercise all the powers and functions of the Chief Executive Councilor under the DGHC Act, 1988 and to decide on the much needed developmental works in the hills. The Board of Administrators will comprise MLA, Darjeeling; MLA, Kurseong ; MLA, Kalimpong ; District Magistrate, Darjeeling and Administrator,

DGHC in keeping with the provisions of the sub-section (1) of Section 17 of the DGHC Act as amended vide Kolkata Gazette Notification of 22nd March, 2005.

28) The GJM agrees to ensure that peace and normalcy will be maintained in the region.

29) A review will be done by the State Government of all the cases registered under various laws against persons involved in the GJM agitation. Steps will be taken in the light of the review, not to proceed with prosecution in all cases except those charged with murder. Release of persons in custody will follow the withdrawal of cases.

30) The GTA youth would be considered for recruitment in the Police, Army and Para Military Forces subject to their suitability for such appointment.

31) The implementation of the provision of the Memorandum of Agreement shall be periodically reviewed by a committee representing the Government of India, Government of West Bengal and GJM.

32) The Government of West Bengal shall repeal the DGHC Act, 1988 along with formation of GTA to be constituted by an Act of the legislature.

Signed on 18th July, 2011 at Darjeeling in the presence of Shri P. Chidambaram, Hon'ble Union Home Minister and Mamata Banerjee, Hon'ble Chief Minister, west Bengal.

(Dr. G.D. Gautama) Additional Chief Secretary, Home & Hill Affairs Department, Government of West Bengal for and on behalf of the Government of West Bengal

(Shri Rooshan Giri) General Secretary, Gorkha Janmukti Morcha, for and on behalf of the Gorkha Janmukti Morcha

(Shri K.K. Pathak) Joint Secretary to the Government of India Ministry of Home Affairs, for and on behalf of the Government of India

Annexure 'A'

List of Subjects to be transferred to the GTA

- (1) Agriculture, including agricultural education and research protecting against pest and prevention of plants diseases; Horticulture, Floriculture and Food processing;
- (2) Animal Husbandry and Veterinary, that is to say preservation, protection and improvement of stock and prevention of animal diseases, veterinary training and practices, cattle pounds; Dairy development;
- (3) Cooperation;
- (4) Information and Cultural Affairs
- (5) School Education including primary education, secondary education, higher secondary education (including vocational training): Physical Education; Government Schools.
- (6) College Education including Agricultural and Technical Colleges, Local Management of Government sponsored Colleges; Mass Education and Physical Education; Engineering, Medical, Management, and Information Technology with Government and Government sponsored colleges for which wings /cells shall have to be created by the GTA for the area under its jurisdiction;
- (7) Adult Education and Library Services;
- (8) Fisheries;
- (9) Irrigation, drainage and embankments, floods and landslide protection;
- (10) Food and Civil Supplies; Consumer Affairs;
- (11) Management of any forest, not being Reserved Forest; [Explanation – 'Reserved Forest' shall mean a reserved forest as constituted under Indian Forest Act 1927 (16 of 1927)];
- (12) Cottage & Small Scale Industries including sericulture, handloom and textiles; handicrafts and Khadi and Village industries;
- (13) Cinchona plantation and settlement of land in possession of the plantation inhabitants: management of lease of cinchona lands etc. under it.
- (14) Woman and Child Development and Social Welfare;
- (15) District Sainik Board;
- (16) "Health including Public Health and Family welfare" including hospitals, dispensaries, health centres and sanatoriums, establishing a Nurses Training School;
- (17) Intoxicating liquors, opium derivatives subject to the provisions of Entry 84 of List I of the Seventh Schedule; distilleries – control and regulation, Bonded House and raising of revenue;

- (18) Irrigation;
- (19) Water Resources Investigation and Minor Irrigation;
- (20) Labour and Employment;
- (21) Land & Land Revenue including allotment, occupation or use, setting apart of land other than land with reserved forest for the purposes of agriculture or grazing or for residential or other non-agricultural purposes to promote interest of the people;
- (22) Library services (financed and controlled by the State Government);
- (23) Lotteries (subject to the provisions of the Entry 40 of the List I of the Seventh Schedule);
- (24) Theatre, dramatic performances and cinemas (subject to the provisions of the Entry 60 of List I of the Seventh Schedule); Sports; entertainment and amusements;
- (25) Markets and fairs;
- (26) Municipal corporation, improvement of trust, district boards and other local authorities; Fire Services;
- (27) Museum and archeology institutions controlled or financed by the State, ancient and historical monuments and records other than those declared by or under any Law made by Parliament to be of national importance;
- (28) Panchayat and Rural Development including District Rural Development Agency (DRDA);
- (29) Planning and Development;
- (30) Printing and Stationery;
- (31) Public Health Engineering;
- (32) Public Works Department including work relating to State Highways as well as the responsibility discharged by the State Government for maintenance of National Highways within the jurisdiction of GTA;
- (33) Publicity and Public Relations including Regulation of Media – both Print and Electronic media;
- (34) Registration of births and deaths;
- (35) Relief and Rehabilitation, establishing a branch of disaster management in consultation with NDMA under the extant laws/rules.
- (36) Sericulture;
- (37) Small, cottage and rural industry subject to the provisions of Entries 7 and 52 of List I of the Seventh Schedule;
- (38) Social Welfare; including part of SC & ST Development and Finance Corporation under GTA area;
- (39) Soil conservation;
- (40) Sports and Youth Welfare;
- (41) Statistics;

- (42) Tourism: Tourism infrastructure within the jurisdiction of the GTA catering to the area of GTA would be transferred to GTA. However, GTA may set up its own wing of Tourism Development Corporation for the area under its jurisdiction;
- (43) Transport (roads, bridges, ferries and other means of communication not specified in List I of the Seventh Schedule, municipal tramways, ropeways, inland waterways and traffic thereon, subject to the provision of Entry 40 of List I and List III of the Seventh Schedule with regard to such waterways, vehicles and other mechanically propelled vehicles);
- (44) The State Government will consider opening an RTO Office in the GTA area however; powers vested with the DM at present would remain with him only.
- (45) Tribal research institution controlled and financed by the State Government;
- (46) Urban development – town and country planning;
- (47) Weights and measures subject to the provisions of Entry 50 of List I of the Seventh Schedule;
- (48) Welfare of plain tribes and backward classes subject to the area being under GTA only;
- (49) Welfare of the Scheduled Castes and Scheduled Tribes and Other Backward Classes;
- (50) Welfare of Minorities;
- (51) Management and settlement of land including markets and market sheds controlled by the Darjeeling Improvement Fund;
- (52) Minor Minerals and Mineral development (subject to the provisions of Entry 23 of List II of the Seventh Schedule);
- (53) Rural electrification;
- (54) Renewable sources of energy including water-power (subject to Entry 56 of List I and Entry 38 of List III of the Seventh Schedule);
- (55) Sharing electricity with GTA subject to evolving a mutually agreeable formula with the State government.
- (56) Pounds and prevention of cattle trespass;
- (57) Management of burial grounds and cremation grounds;
- (58) Regulation of Cable channels; to the extent the powers of Central Act, i.e. the Cable Television Network (Regulation) Amendment Act, 2002 vests with the State government;
- (59) Tauzi: Tauzi Department of the Collectorate.

Annexure 'B1'

LIST OF PROJECTS TO BE UNDERTAKEN BY THE GTA TO DEVELOP THE PHYSICAL AND SOCIAL INFRASTRUCTURE IN THE GTA AREA IN ORDER TO ACCELERATE THE DEVELOPMENT OF THE REGION

1. Comprehensive water supply system in the new body area;

2. Multi-super specialty Medical College and Hospital;
3. Establishment of Hospitality and Tourism Management Institute;
4. Establishment of a College of Nursing;
5. Establishment of a Gorkha House at New Delhi;
6. Establishment of an Institute for Research and Development of the Nepali Language;
7. Establishment of a Cultural Institute to preserve, promote and develop culture, tradition, heritage of the people of the region;
8. Establishment of Research and Development Institute for Tea and Cinchona;
9. Research and Development Institute for Horticulture, Floriculture;
10. Balasan Drinking Water Project to be taken up by the Union Government and be declared as a National Project;
11. Sidrabong Hydro Project has been declared a National Heritage but neglected. Funds for its maintenance and upkeep;
12. Food processing, agro-processing complex and cold storage;
13. Creation and development of the IT industry in this region;
14. A new bridge connecting Dooars to be constructed over the Teesta River as the only Coronation Bridge has become very old and it may collapse any time;
15. Mini and Micro Hydro Projects in GTA;
16. Establishment of Eight Multi disciplinary College different areas of the Region;
17. Establishment of Veterinary Hospitals;
18. High School/Higher Secondary School for every twenty-five villages;
19. Processing plants for Cinchona at Mungpoo;
20. Establishment of Polytechnics for all subdivisions;
21. 2 ITIs / Vocational Institutes in each subdivision;
22. Construction of Multi storied Car Parking at Darjeeling, Kurseong and Kalimpong;
23. Construction of Circular Road connecting Darjeeling Town-Lebong-Pandam- Jorebunglow-Darjeeling Town;
24. Construction of Rope way at Kalimpong(Delo – Relly), at Darjeeling (Tukvar-Singla) and (Batasia-Roack Garden), at Mirik (Mirik – Kurseong), at Kurseong (Giddeypahar- Rohini);
25. Special Fund for the construction of Super-speciality Hospitals in every Sub-Division;
26. Creation of an Industrial zone in an area of at least 1000 acres in the plain areas of the proposed GTA and to be accorded status of special economic zone;
27. Institute of Capacity Building & Livelihood School.

Annexure 'B2'

LIST OF PROJECT PROPOSALS WHICH GTA MAY TAKE UP WITH THE STATE/CENTRAL GOVERNMENT

1. Establish a Central Institute of Technology.
2. Establishment of a Central University;
3. National Institute of Technology (NIT) including IT and Bio-technology;
4. Construction of an alternative National Highway from Siliguri via Mirik along Balasan River to Darjeeling;
5. Establishment of a Fashion Technology Institute;
6. Establishment of a Sainik School;
7. Establishment of National Games and Sports Academy;
8. Establishment of a Tea Auction Centre at Darjeeling;
9. Darjeeling Himalayan Railway to be revitalized for boosting Tourism sector;
10. To establish a Broad-gauge Railway Terminal Station at Sukna;
11. Strengthening and Widening of National Highway 55 and 31 A;
12. Central Government Engineering College funded by GOI;
13. Revival of Trade route to Tibet via Jelep-la from Kalimpong;
14. Reservation of seats for students of this region in College/Institution of higher education including Engineering, Technical, Medical and Management etc all over India;