

## **Nepal's Journey Towards Respect for Human Rights**

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Nepal has changed dramatically in the past three years, with the ending of a conflict that killed thousands and wounded many more in various ways - physically, emotionally and economically. The human rights environment has also altered considerably. Conflict related violations such as enforced disappearances and the serious crimes linked to them – such as murder, torture and rape – have virtually ceased. The peace process has, among other things, brought about an interim constitution that recognises fundamental rights and freedoms, the election of a Constituent Assembly that is more inclusive than any previous legislative body, the re-establishment of democracy and the restoration of a viable National Human Rights Commission (NHRC). All of these serve to improve the human rights environment. Furthermore, the commitments by the Prime Minister, including in his statement to the United Nations General Assembly, that the new government will respect human rights, tackle impunity, establish transitional justice mechanisms and strengthen the NHRC, offer much promise and are welcomed.

Nevertheless, many challenges remain to the effective promotion and protection of human rights. Not least is that real security continues to be a mirage for many Nepalis, who live in fear of abduction, extortion or threats of violence, including by armed groups and youth organisations. And despite commitments to establishing transitional justice mechanisms and to enforce the rule of law, a climate of impunity continues to be pervasive. Moreover, while positive steps are being taken to ensure that Nepalese society will be more inclusive and equal in the future, this process will require a concentrated effort and some time.

With the ending of the conflict, Nepal has a tremendous opportunity to address its root causes, many of which can be framed in human rights terms. Strong Nepalese leadership, supported appropriately by the international community, could ensure that most – if not all – of the human rights challenges can be overcome through a good plan and a determined approach to it. On the other hand, missing this opportunity would not only be unfortunate, it could undermine the peace process.

Success in improving respect for human rights in Nepal depends crucially upon further development and strengthening of a comprehensive national human rights protection system. This system should include an independent, credible and effective NHRC (and other national human rights institutions such as the Women's Commission, the Dalit Commission and the National Foundation for Development of Indigenous Nationalities (NFDIN), laws that are in harmony with international standards and the Constitution, overseen by an independent judiciary and a parliamentary human rights committee, an active and free media and, last but not least, a vibrant civil society, including human rights defenders who are secure and well protected.

When the Office of the High Commissioner for Human Rights (OHCHR) was invited to set up its office in Nepal, it began to investigate numerous reports of human rights violations linked to the ongoing conflict, with considerable success –

within one year reports of enforced disappearances had fallen from being among the highest in any country in the world, to almost nil. During the second *Jana Andolan* OHCHR closely monitored the demonstrations and helped to minimise violence. It has continued through its presence in all regions to monitor and support the implementation of the human rights elements of the Comprehensive Peace Agreement (CPA), investigate serious incidents, advocate for justice for the victims of human rights violations, and it has increasingly focused on supporting the strengthening of national capacity, especially that of the NHRC. Assistance has also been provided to the government, as well as to the many different components of civil society.

With the progress in Nepal's transition, OHCHR-Nepal has been assessing how, as the leading international human rights institution, it can effectively continue to contribute towards enhancing the enjoyment of human rights in this country. As a result of our reflection and consultations, we are focusing on three priority areas: supporting and strengthening national institutions, as well as civil society; tackling impunity and establishing accountability for past and ongoing human rights violations, including by helping to strengthen the rule of law both through the legal framework (including the Constitution) and through supporting an emphasis on respect for human rights within the security forces; and addressing discrimination and improving the enjoyment of economic, social and cultural rights.

OHCHR-Nepal is determined to work increasingly closely with the NHRC to ensure that Nepal's primary national institution to promote and protect human rights is strengthened and respected. We will do so in partnership with other agencies, including UNDP, UNICEF and the ILO. The government has invited OHCHR-Nepal to support the soon to be established commission of inquiry into disappearances and the future truth and reconciliation commission. We are prepared for this. Strengthening national institutions and supporting transitional justice processes are both areas in which OHCHR has developed expertise and contributes in many countries.

The government has also requested OHCHR-Nepal's assistance to ensure that its agencies, including the civil service and the security forces, respect their human rights obligations. We are already helping the government to build its capacity to implement and report on the treaties it has ratified, while we also advise on ratification of further treaties. A programme of training with the Nepalese Army, the Armed Police Force and the Nepal Police through their human rights cells is ongoing.

OHCHR-Nepal has long recognised the importance of working to eliminate discrimination and to promote economic, social and cultural rights and this has become even more of a priority. Defending the rights of the many traditionally marginalised communities must be among our highest priorities, with the poorest and most excluded groups taking pre-eminence. For example, this year we have been working on the right to an adequate standard of living of former *kamaiya*, *haliya* and other marginalised communities in the Far-West region. We are also analysing how Nepal's legal system in its current form can be used to ensure respect for economic, social and cultural rights. Another priority in this area is to

work with national partners to strengthen the capacity of marginalised groups to tackle discrimination and to improve access to justice, especially for women.

Some may wonder whether this shift in focus by OHCHR-Nepal implies a reduction of our effort to protect individuals against human rights violations. Certainly we consider it important to guard against the possibility of a protection gap. If OHCHR has been in part filling that gap for several years, it is not desirable that it continue to do so for the long term, for reasons described above. Ultimately, human rights must be protected by strong national institutions. At the same time, a hasty withdrawal before national institutions are ready could expose individuals and undo what has been achieved thus far. Therefore, we propose a staged handover of responsibilities hand in hand with the growing capacities of the local institutions that we are helping to develop. In this way, OHCHR-Nepal can increasingly function as a safety net while Nepal's institutions, such as the NHRC, take the lead.

Monitoring is the foundation of all human rights activities in the field. It provides the information necessary to undertake effective advocacy, promotion and capacity-building. OHCHR will continue to monitor the human rights situation in Nepal. We will also report, where necessary, on serious violations committed during the conflict, such as large scale disappearances. We will use the information to engage with those who have the responsibility as well as the means to protect human rights and hold to account those who are responsible for human rights violations. We will not investigate every case (there are others who have that responsibility) but we will raise attention to certain cases that are emblematic because they indicate a concerning trend or the need for political intervention or policy attention.

By bravely facing their past and learning from it, in a spirit of cooperation, there is a good chance that the human rights of all Nepalis will be respected. Thanks to the will of the Nepalese people to forge a brighter future for their children, this country is making a remarkable transition. But the journey is only partly complete, in human rights as in other areas. For as long as OHCHR-Nepal continues to play a useful role, we are prepared to renew our commitment to Nepal.