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FOR HUMAN RIGHTS IN NEPAL



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OHCHR-Nepal Representative urges end to 35-day limit for filing rape charges, to mark International Women's Day (8 March)

OHCHR-Nepal Representative Richard Bennett delivered the following speech at a press conference at OHCHR's Office in Kathmandu on Friday:

Tomorrow, 8 March, is International Women's Day. This year the international theme for the day is *Investing in Women and Girls*. And I remind you that the theme of the year celebrating the 60th Anniversary of the Universal Declaration of Human Rights is "Dignity and Justice for all of us".

As a follow up to a panel discussion organized by OHCHR-Nepal last November, and to continue my Office's advocacy towards ending impunity against rape and other forms of sexual violence, we have invited several speakers to share their views on how the restrictive 35-day statute of limitation under the Civil Code for filing complaints (charge sheets) of rape affects women's lives.

Increasing the participation and representation of women in public life, challenging stereotypes and creating gender equality is a very important part of the transition in Nepal. This year there should be something to celebrate as we witness many more women than previously entering politics, and they have the chance to make a significant contribution to Nepal's new constitution. Equally importantly, this will change the public perception of women as victims; instead women should be seen as **actors** in shaping the future direction of the country.

Having more women involved in the lawmaking process should contribute towards the elimination of discriminatory legal provisions, which is one of the most important measures for enhancing the participation of women in public life and in the fight against impunity. Today I wish to refer in particular to the restrictive 35-day statutory limitation for prosecutors to file a charge sheet for a rape. Experts at OHCHR's panel discussion cited the 35-day limit as one of the major challenges to prosecuting rape in Nepal.

In a press release issued for International Women's Day, UN High Commissioner for Human Rights Louise Arbour says – "Efforts to combat violence against women will be severely hampered so long as the legal frameworks to protect them, ensure their rights, and grant them the possibility of economic and social independence, are inadequate ... Many states are failing to live up to their promises to review their laws and root out institutional discrimination, and millions of women continue to suffer grave injustices as a result."

Inquiries by OHCHR reveal that in many cases a complaint against rape is not filed within 35 days after the crime is committed. There are several reasons behind this, including that many women are not ready to talk about the crime that has been committed against them until some time has passed. This seriously impedes further the filing of complaints for a crime that is typically severely under-reported in any case. Moreover, OHCHR has found that the statutory limit is often used as an excuse by police for not filing a complaint in cases of rape. Even when a complaint is lodged, the restrictive statute gives very little time for investigation (to the police) as well as for filing of the charge sheet at the Court, thereby undermining the chances of a successful prosecution.

In contrast with Nepal, in many countries the statute of limitation for rape is 10-15 years from the time of the commission of the offence; this includes Sweden and New Zealand. However, in France and in a few U.S. states, there is no statute of limitation at all for rape. In India, there is no specific statute of limitation for filing cases of rape. However, court interpretation reveals that the cases should be filed “within a reasonable period of time” and therefore the time frame is left to judicial interpretation. There is no statute of limitation for criminal offences in Bangladesh.

Advocacy to amend or repeal the restrictive statutory limitation in Nepal has been ongoing for many years. Even the 2006 report of the Office of the Attorney General points out the need to reform this provision. However, the Supreme Court has several times postponed hearing of the Public Interest Litigation (PIL) seeking a ruling recommending an amendment to the law, which was filed by the Forum for Women Law and Development in 2005. The next hearing of the PIL is scheduled for 9 April.

Just one day after that scheduled hearing, Nepalis will vote for a Constituent Assembly which is expected to lay the basis for a country where everyone enjoys equal opportunities, representation, respect and rights. However, what kind of opportunities, what kind of rights will exist for women if a mere 35 days can transform a rape, into a non-crime? Rape is a crime at any time: after 35 days, months or years. The process of transition to democracy based on human rights for all cannot be complete as long as women are deprived of their rights to a remedy for a crime of rape.

I would like to quote again from the High Commissioner – “It is shameful that, in the 60th anniversary year of the Universal Declaration of Human Rights, fundamental rights are still not enjoyed by many women around the world. In some cases, they suffer from multiple forms of discrimination, such as race, age or disabilities as well as their gender. Unless states take their commitments seriously, investing in women and girls will remain a matter of rhetoric.”

Thank you.