



**Address by Ian Martin
Representative of the United Nations High Commissioner
for Human Rights in Nepal**

**On the occasion of
International Day for the Elimination of Racial Discrimination
Event hosted by the National Dalit Commission and
the Dalit NGO Federation Members
Kathmandu, 21 March 2006**

I would like to thank the organisers of the today's events for the invitation to join you as Chief Guest, and to share some thoughts with you.

Today is an important day for human rights, in Nepal and around the world. The opening words of the Preamble of the Universal Declaration of Human Rights declare - and I quote - that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."

Difference, whether it be on the basis of race - including caste or ethnicity - gender, religion or belief, or other qualities, must never be a justification for denying the inalienable rights of human beings. Racism is insidious, and sadly we see it continue to blight communities in countries all over the world: racial discrimination causes the violation of human rights of millions of people.

The theme for this year's International Day for the Elimination of Racial Discrimination is "Fighting Everyday Racism". Tragically, everyday life for people in Nepal means living in the context of the violence of the long-running armed conflict, and in a situation where many democratic rights are under threat. This affects the human rights of all people in Nepal, but clearly Nepalis whose rights were already vulnerable find themselves even more susceptible to violations. Members of Dalit communities across Nepal, already suffering a denial of fundamental rights under the centuries-old caste system, and members of indigenous nationalities, have suffered further denial of their rights in context of armed conflict.

OHCHR established its office in Nepal in May last year, with a mandate established by the Agreement between the High Commissioner and the Government of Nepal. Based on our work, the High Commissioner has reported to the United Nations General Assembly, and now to the

Commission on Human Rights, on three categories of human rights violations:

- Violations of human rights and international humanitarian law (also known as the laws of war) in the context of the armed conflict.
- Violations of democratic rights, such as the rights to freedom of expression, freedom of association and freedom of peaceful assembly; and
- Long-standing human rights concerns in Nepal, such as caste- and ethnicity-based discrimination and gender-based discrimination.

The protection and promotion of human rights of members of Dalit communities and members of indigenous nationalities falls within each of these categories.

It was the human rights violations associated with the armed conflict which did most to lead to the establishment of our Office, and so I would like to focus my remarks today on the tragic consequences of this conflict on the human rights of Dalits and members of indigenous nationalities. I have found useful in my own understanding a study published in August 2005 by the Center for Human Rights and Global Justice at the New York University School of Law, titled "The Missing Piece of the Puzzle: Caste Discrimination and the Conflict in Nepal." The study states that "the victimization of Dalits...by the State and Maoist insurgents is inextricably linked to the perpetuation of the conflict," as it is "both a root cause and an insidious consequence of the conflict in Nepal." Much of the same victimisation can be said to be suffered by members of Nepal's indigenous nationalities.

The study highlights systematic violence against Dalit communities by both the Maoists and State forces. It notes that while Maoists claim political empowerment of Dalits as a central tenet of their agenda, "Dalit civilians also face discrimination and egregious abuses at the hands of the Maoists themselves." Violations by the Maoists include murder and torture of those individuals they have deemed adversaries, sexual assault and forced stays in private homes. The study details how State security forces target Dalit communities. It notes that "while individual Dalit men and women have actively joined Maoist forces, Dalit communities as a whole are collectively and summarily punished by state agents, even when there is no evidence of their involvement in the insurgency." It also reports on caste-based profiling as a common practice by state security forces at security check-posts and during village interrogation round-ups.

In short, the study concludes that "the conflict in Nepal has crippled Dalit communities into a state of constant fear and economic deterioration."

Nepal has a number of legal obligations to take action to ensure the eradication of caste-based discrimination, under both international and domestic law. The 1990 Constitution guarantees the equality of all citizens. The Treaty Act of 1990 provides that international human rights treaties

ratified by Nepal shall prevail over national laws that are inconsistent with them – and that includes the International Convention on the Elimination of Racial Discrimination. In 2002, the UN Committee on the Elimination of Racial Discrimination adopted General Resolution XXIX, which interprets the International Convention on the Elimination of Racial Discrimination (ICERD) in terms of the specific form of discrimination faced by Dalits and low-caste communities, urging a wide range of measures – it lists 48 of them – to be taken by governments. The UN human rights system has equally been concerned with the rights of indigenous nationalities.

The Government of Nepal has indeed committed itself to take action to address caste-based discrimination, in its ten-year plan, in its Human Rights Action Plan, and elsewhere. However, the UN Committee on the Elimination of Racial Discrimination made a series of Concluding Observations on the Government's joint 15 and 16th Report in 2004 calling for action. These included 13 specific areas of concern and recommendations for follow-up action by the Government. They took account of the impact of the armed conflict on vulnerable groups, and recommended that the Government seek to balance security concerns with its human rights obligations, in particular regarding members of vulnerable groups. Each of these 13 areas of concern bear careful analysis by non-government and civil society organisations who can play a key role in ensuring Government implementation. They include that the Government, as a matter of priority, should take measures to prevent, prohibit and eliminate private and public practices that constitute segregation of any kind; that the Government enforce special measures to guarantee to members of disadvantaged groups the right to participate in elections, to vote and stand for election, and to have due representation in government, legislative bodies and the judiciary; and that the Government consider introducing special measures to ensure due representation in the mass media of members of disadvantaged groups, including Dalits.

Within the limited resources of OHCHR-Nepal, our Office will seek to address human rights violations against Dalits, members of indigenous nationalities and other minorities. In particular we will try to highlight such violations committed in the context of the conflict. We will also seek to focus the attention of the mechanisms of the UN human rights system as a whole to support the rights of Dalits and ethnic minorities in Nepal. One such mechanism is the UN Special Rapporteur on Racism, who made a formal request more than a year ago to visit Nepal. I hope this visit will soon be possible.

In closing, I pledge that the OHCHR in Nepal will continue to work with the Dalit and Janjati communities, with civil society including the Dalit NGO Federation, the Nepal Federation of Indigenous Nationalities, and with official bodies such as the National Dalit Commission, the National Foundation for the Development of Indigenous Nationalities and the National Human Rights Commission, to advance the protection and promotion of the rights of Dalits and members of indigenous nationalities.