

**INTERACTION PROGRAMME ON THE PARIS PRINCIPLES AND THE
NATIONAL HUMAN RIGHTS COMMISSION**

1 August 2006, at the Hotel Himalaya

Speech by David Johnson, OHCHR-Nepal

Honorable Speaker of the House, Distinguished Guests, Ladies and Gentlemen,

It is a genuine pleasure for me to participate in this interaction with the House Committee on Foreign Relations and Human Rights organized today by the staff of the National Human Rights Commission. This is a very welcome initiative to bring together two key partners over a key issue at a key time. I think that everyone will agree that these series of consultations on the appointments process, which is beginning today with the House Committee, demonstrates the commitment and professionalism of the NHRC staff. They are that institution's greatest asset and their effort to organize these consultations is both timely and welcome.

I am here today, of course, on behalf of Ian Martin, the Representative of the United Nations High Commissioner for Human Rights in Nepal. Unfortunately, Mr. Martin is unable to attend this interaction owing to his participation in the UN mission presently here on the issue of possible assistance to the peace process. However, Mr. Martin and indeed the High Commissioner for Human Rights, Louise Arbour, continue to follow closely the work of the Commission and have prioritized OHCHR assistance to it. Let me also say that the international community, including the donors who so generously support the work of the Commission, have long taken a deep interest in the issue of the appointments process. Most recently, they expressed their concern over a transparent and consultative appointments process for new Commissioners in a letter to the Prime Minister. The donor community knows that a proper appointments process is fundamental to a strong and effective Commission.

Today I have been asked to speak on best practices from international experience on appointments procedures for Human Rights Commissions. Accordingly, I have three main points to make today as concerns the NHRC in Nepal.

The first point is that the process for the appointment of National Human Rights Commissioners must be transparent and broadly consultative. These are the fundamental principles and there are many ways to ensure that they are respected. It must be acknowledged that there is no single process or procedure which is the right one for every country. Every country should adopt its own specific procedure that is based on its own political, social and cultural history. Nonetheless there are two elements often found in international best practices on appointments. One element is to undertake a broad consultation among civil society. Experience in Nepal has demonstrated that when names of candidates for public bodies are made public after their appointment, there is often heated

criticism, particularly on the issue of representiveness. That criticism can lead to breakdown in partnerships and cooperation and officials may be labeled as illegitimate even if they try hard to carry out their mandate. These problems can be avoided through broad public consultation. In many countries, nominations for Commissioners may even come from civil society and NGOs may voice their views and concerns over appointments in public meetings. Holding such consultations and effectively taking them into account may create a sense of ownership among civil society for the process. This is extremely important in Nepal given the NGOs' strong historic link to the establishment of the Commission. The other key element we can identify in best international practice is appointment by Parliament. This distances the appointment from the executive branch of Government and may reinforce linkages between Parliament and civil society. But the appointments process for Commissioners must not be politicized, which brings me to the second of my three main points – appointments criteria.

The Paris Principles emphasize that there should be “pluralistic representation” among the Commissioners. International experience has shown that an effective Commission should reflect a balance of gender and diversity within society, especially with regard to vulnerable groups. Here in Nepal, vulnerable groups include not only women but Dalits and members of the various ethnic minorities. It must be emphasized that political affiliation should not be a criteria for appointment. The NHRC should not be regarded as a pie to be carved up among political parties. Similarly, the NHRC should not necessarily reflect the political composition of Parliament. Non-partisanship is fundamental to an independent and effective Commission. This will not be maintained if Commissioners are associated with or identified as representing specific political parties. Commissioners must represent and be responsible to all the people of Nepal regardless of their political affiliation. Commissioners must be, above all, independent, professional and courageous. All of this will be undermined if they identified by party and are seen as representing various political interests.

My third and last main point concerns the importance of an independent appointment process for senior staff of the Commission. Although the focus here today is on the appointment of the Commissioners, it is important to note that the appointment of senior staff must be similarly addressed to ensure, independent, non-partisan, professional and competent managers in the NHRC. I should point out that the Nepal National Human Rights Commission is presently under review by the International Coordinating Committee of National Institutions (ICC), the global body comprised of all Human Rights Commissions worldwide. The NHRC is fully accredited by the ICC as an independent Commission but that status is now under review. The NHRC must demonstrate its independence at a global meeting later this year or it will lose its standing in the world body. The challenge arose after the two previous Commissions publicly advertised and recruited a permanent Secretary, the key official who manages the Commission and is responsible for its proper functioning. The recommendation made was rejected by the previous Government despite that the process was a proper one, leaving the position filled only on a temporary basis. This interference runs counter to international practice that the Commission must be responsible for the appointment of its own staff. The role of the appointing authority in government is only to ensure that a proper process is followed, not to judge or reject the recommended candidate, particularly on the basis of political affiliation.

It is important to flag this point so that the new Government respects the power of the Commission to recruit and appoint its own staff, in accordance with a competitive and transparent process. Similarly, international experience shows that Commission staff should not be on secondment from Government, as has happened here sometimes in the past. Commission staff can only exercise the necessary initiative, independence and courage when they do not depend upon returning to Government service for their career. Service in the NHRC should be a career in itself, with movement from not only Government but also from civil society into the Commission and, for some, movement onward back to civil society or even into international organizations.

These are my three main points and I hope that all will agree in conclusion that the role of Parliament will have a significant impact on how effective the Commission will be. Today's Kathmandu Post carries an article headlined "NHRC recommendations mostly gather dust". If this is indeed true, then I think that a large part of the reason why has been the absence, until recently, of Parliament. Without the active oversight and pressure from Parliament for follow-up, the recommendations of a Human Rights Commission in any country will tend to "gather dust". Parliament is a crucial partner for the Commission and the more independently and actively Parliament will interact with the Commission, the independent and active and the Commission may be.

I therefore hope that this interaction today will be the first of many in a close and fruitful relationship between the Commission and Parliament. As always, the Office of the High Commissioner for Human Rights is committed to continue its advice and assistance to the Commission and do whatever it can to facilitate a strong, active, independent and effective NHRC.

Thank you.