



Opening Remarks by Richard Bennett, Representative of the High Commissioner for Human Rights in Nepal, at a Workshop on Ensuring Better Protection of Economic, Social, Cultural and Women's Rights in the New Constitution, 11 - 12 November 2009, Kathmandu

General Secretary of Nepal Bar Association, Raman Kumar Shrestha, Members of Constitutional Assembly, Lawyers, Human Rights activists, ladies and gentlemen,

Thank you for coming to this programme today. It is my great pleasure to welcome you all here. We are all here today because we think the Constitutional deliberations offer great hope for Nepal: an opportunity to build a nation on a strong foundation of human rights, including by incorporating economic, social and cultural (ESC) rights in the highest law of land.

Ensuring ESC rights of all Nepalese, and especially the rights of minority, marginalised and vulnerable groups including women, children, Dalits, indigenous peoples and others, will be a significant step forward towards fulfilling the aspirations of Nepalese people for economic and social justice, as voiced during the *Jana Andolan II* and also stressed in the Comprehensive Peace Agreement (CPA) signed in November 2006 between the Government of Nepal and Communist Party of Nepal - Maoist (CPN-M).

If ESC rights are not guaranteed in the constitution on equal footing with civil and political (CP) rights, then all human rights will fall short of full realisation, given the principle that all human rights are indivisible, interdependent and interrelated. Your decision to discuss in this workshop how to better protect economic, social and cultural rights, as well as women's specific rights, in the new constitution is most commendable. I further note that ensuring protection of ESC rights through judicial enforcement is highly desirable if the root causes of the conflict are to be addressed and peace sustained.

OHCHR-Nepal is strongly committed to working with professional organizations like the Nepal Bar Association (NBA) to maximize the opportunities for everyone to take part in the Constitution making process. So I would like to appreciate NBA for taking the initiative in organising this workshop in collaboration with OHCHR. Our joint aim is to offer a consultative forum for law professionals, especially women lawyers, to generate discussion and suggestions useful for the Constituent Assembly (CA).

From OHCHR-Nepal's perspective, we hope that the international human rights instruments, including ICESCR to which Nepal is a party, may serve as an inspiration for these constitutional deliberations, inside and outside the CA. When we look at the core human rights instruments, they articulate, in language carefully negotiated by member states, including Nepal, a wide range of civil, political, economic, social and cultural rights, as well as detailing the rights of particular groups, whether they are women, ethnic, religious or linguistic minorities, indigenous peoples, or children. In my view, the process of making Nepal's new Constitution offers a unique opportunity to strengthen the human rights legal framework for the benefit of everyone in Nepal.

While talking of rights, we should remain mindful that robust accountability mechanisms are crucial if rights are to be realized. These include a strong and independent

For further information contact Chun Gurung, tel: 4280164, ext 320;
98510 16937 (mobile), cgurung@ohchr.org

Website: <http://nepal.ohchr.org>

judiciary with sufficient power to hold the government to account and national human rights institutions, such as the NHRC, that monitor governmental performance of its obligations towards ESC rights and take up complaints of violations or denial of ESCR. An active parliamentary committee on human rights can also play an important role in protecting and promoting ESCR.

While officially mandated complaint bodies are crucial if the State is to meet its responsibility to provide an effective remedy for violations, one can also consider approaches to bring about the systematic realization of ESCR. In South Africa, for example, the Constitution requires State authorities to provide a report annually to the South African Human Rights Commission on measures they have taken towards the realization of particular economic and social rights in the Bill of Rights. Similarly, the Constitution in Ghana requires the President submit a report annually to the parliament on the government's performance in terms of ESCR provisions.

And let us not forget that lawyers and professional organizations, like NBA, are enormously important not only in terms of securing strong protection of all human rights in the new constitution but also to translate the textual guarantees into reality.

Needless to say, adoption of a new Constitution will be seen as one of the benchmarks of the success of Nepal's peace process. My Office is pleased to play a supporting role to professional organizations, state institutions and civil society through offering technical assistance and comparative expertise that may contribute to the process of drafting the new constitution. That all stakeholders work together to strengthen this country's fundamental legal framework is vital. May I assure you of OHCHR's commitment and best wishes for these discussions and I look forward to seeing the recommendations made by this initiative.

Thank you.