



Remarks by Mr. Anthony Cardon

Officer-in-charge for the Office of the United Nations High Commissioner for Human Rights in Nepal (OHCHR-Nepal) at a programme to Mark Human Rights Day organised by the National Human Rights Commission (NHRC),

10 December 2010, Kathmandu

Namaste!

Right Honourable Chief Justice, Mr. Ram Prasad Shrestha; Honourable Chairperson of the National Human Rights Commission, Mr. Kedar Nath Upadhyaya; Honourable Chairperson of National Dalit Commission, Mr. Bijul Bishwokarma; Honourable Chairperson of National Women Commission, Madam Naina Kala Thapa; Chairperson of NGO Federation Dr. Netra Timsina; Coordinator of human rights Magna Meet Mr. Genesh B.K.; NHRC Commissioners; Honourable Ministers; Honourable members of the Constituent Assembly; Excellencies; NHRC staff members; UN colleagues; representatives of civil society and the media; ladies and gentlemen:

It is an honour to speak on behalf of the High Commissioner for Human Rights and the entire UN system in Nepal on such an important occasion. Every year the High Commissioner identifies a global priority for Human Rights Day. The theme for this year - "**Speak Up ... Stop Discrimination**" - is dedicated to human rights defenders who act to end discrimination and as such is of particular relevance to Nepal.

I believe that everyone present here agrees that continuing practices of caste-based discrimination and untouchability in Nepal are an affront to human dignity as well as being illegal under both national and international law. However, in many parts of the

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country, *Dalits* are still considered to be and treated as “untouchable”, unable to enjoy the same rights and freedoms as other groups in society. Despite the practices being illegal in principle, in practice a number of factors – including structural poverty, inadequate action by state authorities and cultural traditions – result in widespread discrimination on the grounds of caste, and to continuing impunity for those who perpetrate these crimes. The lack of an effective legal framework to properly address the issue of discrimination, and to punish those who discriminate, serves to perpetuate this situation.

Non-discrimination and equality are core international human rights principles, binding on *all* states. The government of Nepal has an obligation to take measures to prohibit caste-based discrimination and untouchability under international human rights law. OHCHR welcomes the fact that the government of Nepal has ratified a number of important international legal instruments which require Nepal to undertake appropriate measures in this regard, and that the Interim Constitution prohibits any discrimination based on caste and the practice of untouchability in any form. These are undoubtedly positive steps.

However, for these standards to have actual impact at the grassroots level in Nepal, where discrimination remains a daily reality for hundreds of thousands of Nepalis, there must be specific, operable legislation. The government’s decision to submit a relevant draft law to parliament in July 2009 was a move in the right direction. However, the fact that this law has not been considered further by parliament since that time raises concerns that the issue is not being treated with the necessary level of seriousness or urgency.

To mark the theme of International Human Rights Day - “Speak up ... stop discrimination - OHCHR and the National Dalit Commission have jointly reviewed the draft Untouchability Bill and are today presenting across Nepal a short booklet outlining our observations and to advocate for the rapid passage of an appropriate Bill into Law.

The booklet sets out both the strengths of the current draft and the areas that we believe require strengthening to ensure the most effective legislation reaches the statute books. I do not have time to go through the details now, but encourage our friends in the human rights community to utilise this document as part of on-going efforts to push for the law to be passed as soon as possible.

The right law – one which properly defines the offences that constitute discrimination; one which clearly sets out the role and responsibilities of the police to initiate investigations and prosecutions; and one which ensures that the punishment is proportionate to the severity of offence – will play a vital role in the process to eliminate caste-based discrimination in this country.

But in the absence of the necessary laws it remains human rights defenders who are in the front-line of the fight against discrimination and other human rights abuses, working across Nepal in the face of significant challenges. Every day they speak out against human rights violations and in doing so they are often putting at risk their own safety and that of their families. Their efforts can result in important developments – for example, successful court decisions against perpetrators of discrimination related crimes in Baitadi district in far-western Nepal have been realised after concerted advocacy efforts by a human rights defenders network in the district.

However, the risks defenders face are very real and earlier this year the Human Rights Council in Geneva expressed grave concern at the continuing threats faced by many human rights defenders and emphasised the state's role in guaranteeing a safe environment for them. The role of national human rights institutions is also significant and OHCHR believes that the National Human Rights Commission should build on steps it has already taken to play a key role in advocating for the protection of human rights defenders as well as strengthening their capacities.

The process to end caste-based discrimination is multi-dimensional. It requires the legal structure to properly outlaw all discriminatory practices with the respective roles of the police and courts clearly set out. But it also requires adequate mechanisms to protect the tireless efforts of local human rights defenders for them to be able to

operate in an environment that gives them the space to advocate for change. National Human Rights Institutions, policy makers together with the international community can not spare any efforts to enable HRDs to speak up and stop discrimination.

Human rights defenders fighting discrimination are being recognised and acclaimed on Human Rights Day this year. In this light I would like to close by quoting the words of Navi Pillay, the High Commissioner for Human Rights, on this very day:

“On Human Rights Day 2010 we are declaring our solidarity with, and our admiration for, people of conscience: the men and women, young and old, of all nationalities and from endlessly diverse backgrounds who stand their ground and speak up for human rights.”

Thank you! Dhanyabad !