



**UNITED NATIONS  
OFFICE OF THE HIGH COMMISSIONER  
FOR HUMAN RIGHTS IN NEPAL**



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**High Commissioner tables report on Nepal at the General Assembly**

The annual report on Nepal of the High Commissioner for Human Rights was tabled at the General Assembly in New York yesterday, Wednesday, at its Third Committee (Social, Humanitarian and Cultural). In her report, High Commissioner Louise Arbour noted that the political changes following the April protests and the ceasefires which were announced subsequently have had a significant impact on the human rights situation, particularly with regard to violations of international humanitarian law following the cessation of hostilities, and greater respect for freedom of expression and assembly.

The High Commissioner's report describes some of the positive steps which have been taken and highlights the fact that the peace process offers a hope of continuing improvements in respect for human rights by all parties. At the same time, it stresses that there are many issues which still need to be addressed. All parties must ensure that human rights remain central to the peace process in order to ensure that a sustainable peace is secured. Any setback to the peace process risks a negative and potentially devastating impact on the human rights situation.

Continuing abuses by the CPN-Maoist - including abductions, ill-treatment, killings and child recruitment, - and violations by police and the Nepalese Army are documented in the report. Such abuses, which undermine commitments given by the parties to respect human rights, must be ended.

The report also notes the weakness or absence of the law enforcement and administration of justice systems. Strengthening both will be essential to firmly establishing the rule of law, protecting human rights and preventing the emergence of elements which risk undermining the peace process. Effective law enforcement in accordance with international human rights standards will also help to ensure that the electoral process for a Constituent Assembly, from its early stages, can be organized without fear, intimidation or more serious abuses. In this context, the report notes also that the parties will need to recognise the demands of marginalized groups for adequate participation and representation.

The report notes that OHCHR-Nepal submitted recommendations to the Interim Constitution Drafting Committee, and subsequently to the political parties, which would strengthen existing human rights provisions of the interim constitution: regarding the right to life; retroactive criminal laws and amnesty; freedom from torture and from arbitrary arrest or detention (including disappearances); rights regarding fair trial and juvenile justice and the independence of the judiciary. OHCHR-Nepal is very concerned that the current draft of the interim constitution would allow the Government of Nepal to put aside its obligations to protect fundamental rights, such as the right to life and the prohibition against torture, during a state of emergency. It is essential that the Interim Constitution complies in full with Nepal's international human rights obligations.

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Holding those responsible for human rights abuses to account is essential to effectively ending the current climate of impunity at the level of the state and by CPN-Maoist, and must be a priority. The report notes that some steps have been taken to address impunity, but these measures have been far from adequate. Combatting impunity remains one of the greatest human rights challenges.

Since the High Commissioner's report was written, the Home Ministry has presented to the House of Representatives a list of some 600 names of those who disappeared and some 174 cases which it states have been clarified. OHCHR-Nepal is in the process of carrying out a complete assessment of the information, but on the basis of cases examined so far most appear to have been clarified on the basis of information provided by the security forces which has not been independently verified.

OHCHR-Nepal wrote to Prime Minister Koirala on 17 October outlining continuing concerns regarding several of the 49 cases which were included in OHCHR-Nepal's report on torture and disappearances by the Bhairabnath Battalion, and whose fate the Nepalese Army claims to have clarified. The High Commissioner's report to the General Assembly notes that the Nepalese Army's investigations are not transparent or impartial, and that the Nepalese Army continues to refuse to provide OHCHR-Nepal with access to documents relating to military investigations and court martial proceedings into abuses. OHCHR-Nepal has yet to receive a detailed response to the allegations contained in its report on torture and disappearances by the Bhairabnath Battalion and is continuing to push for an independent inquiry to look into all disappearances.

The High Commissioner's report also notes serious concerns about the lack of progress in clarifying the fate of numerous individuals abducted by the CPN-Maoist in the context of the conflict, and also in the failure to hold CPN-Maoist cadres fully accountable for any abuses committed, including in the case of the attack on a public bus in Madi Chitwan in 2005.

The key role to be played by the National Human Rights Commission (NHRC) is recognised in the report. OHCHR-Nepal continues to press for the timely appointment of independent Commissioners through a transparent and consultative process. OHCHR-Nepal also continues to express its concern that any new Commissioners should not be selected on the basis of political affiliation. It is essential that the NHRC be developed into a fully-functioning, professional, independent and impartial body as soon as possible to defend and protect human rights throughout the country.

At the same time, the report highlights the need to address the issue of internal displacement so that displaced persons can return to their places of origin without fear. It calls on the Government to design and implement a concrete and comprehensive plan for return, which could be technically and financially supported by the international community. It also calls on the CPN-Maoist to ensure compliance at the local level with its commitments regarding safe and dignified return of internally displaced persons as well as the return of their property.

The High Commissioner's report reflects that hundreds of thousands of lives have been affected by the conflict, with many still bearing the scars, having lost their loved ones; as a result of torture and detention; maiming by bombs and improvised explosive devices; displacement and economic hardship; the psychological trauma of conflict. It notes that the Government and CPN-Maoist have recognised in their agreements that human rights are core elements to the peace process. Civil society, in its broadest sense, has framed many of its demands in human rights terms. There are expectations that the peace process will bring solutions to long-standing human

rights issues, especially deeply-engrained discrimination, prejudices and abuse against marginalised groups, as well as economic disparities.

The peace process offers hope of lasting improvements in respect for human rights. But to achieve lasting peace and justice, it is essential that the parties to the conflict translate their written commitments to human rights into effective, long-lasting action. As the High Commissioner notes in her report, OHCHR-Nepal stands ready to assist regarding human rights matters related to the peace process.