



OHCHR-Nepal

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**Address by Louise Arbour
United Nations High Commissioner for Human Rights**

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Human rights and the peace process in Nepal

Distinguished guests, members of the human rights community in Nepal, friends,

I am very pleased to be back in Nepal, on my first visit since my Office was established here in May 2005. This has been a period of both progress and continuing challenges for the protection of human rights in your country.

I would like to begin by remembering the victims of human rights violations during the 11-year conflict, especially those who were killed or who have disappeared and those whose lives have been wracked by terrible violence. My Office is committed to continue its efforts to help to achieve justice for survivors and the families of those affected by this tragedy.

I would also like to acknowledge the extraordinary work and achievements of the human rights community of Nepal throughout this difficult time. The partnership between my Office and your community has been essential to our work, and it will continue to be so throughout the peace process.

Respect for human rights is an essential foundation for peace and democracy in all countries. In countries seeking to put an end to violence, our experience is that for peace agreements to have a maximum chance of success, human rights must be key components in the negotiations as well as in the implementation stage of a peace process.

In the coming phase of the peace process here in Nepal, respect for human rights must be the cornerstone upon which the rule of law is established. I am very encouraged by the commitments of the parties to the Comprehensive Peace Agreement (CPA) - the Seven Party Alliance Government and the Communist Party of Nepal (Maoist) - to guarantee fundamental human rights throughout the peace process, and to address longstanding human rights issues as part of a process of social transformation.

This cross-party agreement on human rights fundamentals offers great promise to the people of Nepal. Delivering on that promise will take the determined efforts of political parties, Government and State institutions, as well as the active engagement of civil society including human rights defenders. Broad consultation and consensus based on dialogue at the national and local levels will be essential to that process.

My Office has been asked to play a central role in monitoring the human rights provisions of the CPA. We intend to fulfill this responsibility by working together with the incoming Interim Government of Nepal, political parties, the National Human Rights Commission, civil society and all other relevant actors. Our primary focus will be on contributing to a peaceful environment in the regions and districts of the country by independent and impartial monitoring of the human rights situation and by engaging in the necessary advocacy with all parties.

It was in the regional and rural communities that people were most vulnerable to human rights violations and abuse during the conflict – and it is in these communities that we must all invest special effort to ensure that threats of violence belong to the past. This is essential for the internally displaced population to be able to return in a fully safe and sustainable manner, for Government services to be re-established throughout the country, and for communities to be able to recover from eleven years of conflict.

In this context, since the April *Jana Aandalon*, and even since the signing of the CPA, our teams have monitored continuing serious human rights abuses in the districts, especially by cadres of the CPN (Maoist) who have been responsible for abductions as well as torture and ill-treatment in some cases. Such abuses must end - now.

Our teams will work closely with local authorities, civil society and key local actors to help both sides of the conflict put into practice their commitments to protect human rights. We will ensure through our reporting that national level Government and the international community are aware of any human rights concerns as well as our recommendations for action to address them.

In order to guarantee that the protection of human rights remains at the centre of the peace process, there are three specific areas of action which my Office considers essential in this transitional period.

Firstly, impunity is a major threat to human rights protection: thus, resolving all outstanding cases of disappearances and holding accountable those who committed serious human rights abuses during the conflict – both from the CPN-Maoist and the State security forces – is a first priority. International experience teaches that this task – though difficult and challenging – is an essential pre-condition to durable and sustainable peace.

Related to this, serious human rights violations against civilians by military personnel should not be dealt with through internal military proceedings. In Nepal, my conviction is that they must be investigated and prosecuted through the civilian legal system, in an impartial and transparent manner. This is another important step in re-establishing the rule of law in Nepal.

The State is also directly accountable to the victims and their families, who have the right not only to know the truth of what took place, but also to see justice done. OHCHR-Nepal has repeatedly raised its concerns about the lack of progress in ending impunity in Nepal, including obstacles to investigations and prosecutions.

It has been my consistent position as High Commissioner that soldiers or police suspected of perpetrating human rights abuses in their own countries are unfit for service in United Nations peacekeeping missions. If they cannot protect their own citizens, what chance they will defend the citizens of other states. This applies as much to Nepalese police and soldiers as to any others.

Thus, my Office is keen to ensure that State security forces, both individuals and military units, whose previous conduct so dictates, should not be allowed to participate in United Nations operations until thorough investigations and appropriate prosecutions through civilian courts have been undertaken.

In this regard, for example, my Office has submitted detailed reports to the Government on the torture and death of 15-year old Maina Sunuwar, and the cases of torture and disappearance by the Bhairabnath Battalion in Kathmandu, among others.

Secondly, it is essential that an effective system for law enforcement and the administration of justice – one that conforms with international human rights obligations – is established. This includes a professional police force that understands and respects human rights, including the right to be free from torture, of the citizens they serve.

The police of the new democratic Nepal must be representative of the community, responsive to the community's needs and accountable to it. To that end, OHCHR-Nepal has been providing human rights training to the police and assisting the police to finalise and publish their human rights standing orders, to ensure that all police act in accordance with international human rights standards.

There must also be constitutional guarantees to ensure a strong, independent and even-handed criminal justice system, and it is essential that this justice system is accessible to all Nepalese people, especially people from the most marginalized and disadvantaged sectors of society. Access to justice is a key focus for OHCHR-Nepal regional teams, especially for women victims of sexual violence, and those others who may have difficulty accessing the judicial system, such as the many rural Dalit communities.

Thirdly, and following on from the above, now is the time to address longstanding discrimination and the social exclusion of such Nepalese as Dalits, indigenous peoples, Madhesis, people with disabilities, sexual minorities and exploited groups such as ex-Kamaiyas. In the peace process Nepal has the opportunity to take great strides in creating a State in which such debilitating forms of discrimination are addressed/eliminated and in which equality is guaranteed and practiced for the benefit of all.

To this end, OHCHR-Nepal works closely with civil society organizations from many marginalized groups in order to identify key human rights concerns and to advocate to bring about an end to longstanding discrimination and social exclusion. My Office also makes recommendations to the Government in relation to its legal obligations under international treaties, including in relation to domestic law making and implementation.

Nepal is entering a new phase of the peace process, in which arms and combatants are restricted to barracks and cantonments. Moreover, preparations for the Constituent Assembly election will soon take place in communities across the country. Respect for human rights is essential in creating a climate which is conducive for a free and fair election. All political parties have a responsibility to ensure that their members respect the right of others to hold and peacefully express different political views. In a country emerging from eleven years of conflict – where there are bound to be divisions and tensions in society – it is of crucial importance that political parties and their supporters, as well as local leaders from all walks of life, show tolerance and engage in dialogue rather than resort to threats and violence to resolve differences.

Political parties have a responsibility to operate in a democratic and inclusive manner in order to demonstrate that they will themselves protect and promote human rights when in government. There is a tremendous opportunity for mainstream political parties to demonstrate their commitment to ending discrimination and exclusion by ensuring that candidates in key

positions on party lists for the election to the Constituent Assembly come from a broad cross-section of the diverse Nepalese society – including women, Dalits, Madhesis and people from smaller minority groups. This would contribute to making the Constituent Assembly more representative - as one in which all Nepalese people will see their own interests directly reflected.

As you may know, the global focus of my Office for Human Rights Day last year was poverty. In the urgent task of negotiating peace after the long conflict, and developing transitional power-sharing methods of governance, it is easy to be distracted from the impact of crushing poverty on the day-to-day lives of millions of Nepalese people.

The link between poverty, human rights and conflict was acknowledged by Member States of the United Nations in 2005 when they considered the report of the then Secretary-General, Kofi Annan, *In Larger Freedom*. Talk of human rights without effective action to alleviate and eradicate poverty will be in vain. Economic, social and cultural rights are essential elements of a fully integrated vision of human rights as key for ensuring real security in a post-conflict setting.

The discrimination and exploitation that stand at the roots of widespread poverty must be urgently and seriously addressed. Peace can only be assured when all Nepalese people can live in dignity and fully participate in the life of the nation with all of the opportunities and responsibilities this participation brings.

Nepal continues to be overwhelmingly a rural society, with the great majority of Nepalese people eking out a subsistence living from farming. The alarming rate of maternal and infant mortality, the high instance of prolapsed wombs among women and girls from physical labour, lack of access to basic food security, housing and land, poor literacy levels and limited capacity to get even a basic education – these are all pressing human rights issues and their resolution is absolutely key to ensuring progress towards a fair and just society for all Nepalese people.

Friends in the Nepalese human rights community, there is much work for all of us to do in the months ahead. It is a privilege to assist you in addressing the most fundamental challenges to human rights. I assure you that my Office takes this responsibility very seriously, and that we will do all that we can, working with you, to ensure that the protection and promotion of the human rights of the Nepalese people remains at the centre of the peace process.

Thank you.