

**Remarks by Richard Bennett
Representative of the United Nations High Commissioner for Human Rights in Nepal
At a Programme to Mark Human Rights Day Organised by
the National Human Rights Commission (NHRC), 10 December 2009, Kathmandu**

Honourable Prime Minister Madhav Kumar Nepal; Honourable Chief Commissioner of the National Human Rights Commission, Mr Kedar Nath Upadhyaya; 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.

The theme that the High Commissioner has chosen for Human Rights Day this year "embrace diversity, end discrimination" is surely of great relevance in Nepal. Nepal is a diverse country in many respects - it has multiple ethnicities, religions, languages and castes; it has women, men and people of different sexual orientations; city dwellers and rural dwellers and so on. Every society that embraces diversity enhances its richness and depth, and becomes more dignified and peaceful.

Social inclusion and equality are fundamental to the success of peace process. It is no exaggeration to say that the root cause of armed conflict in Nepal lies in the social injustice and the historical denial of basic rights to marginalized and minority communities, including for example, work, food and housing.

Combating discriminatory practices in Nepal – including 'untouchability' and bonded labour systems such as Haliya and Kamaiya – is one of the key priorities of my Office and we are working in partnership to this end with government, National Institutions and civil society organisations, as well as our sister UN agencies. For example, working alongside the Office of Prime Minister my office is proud to be contributing to the government's commendable "End Violence Against Women" campaign in 2010. As the High Commissioner stated today, " Women work two-thirds of the world's working hours and produce half of the world's food, yet earn only 10 percent of the world's income and own less than one percent of the world's property. Despite significant improvements over the past century, women and girls are still discriminated against to some degree in all societies and to a great degree in many. Every day countless numbers of women are sexually or physically abused, and the vast majority of their abusers go unpunished and future abuse is undeterred."

OHCHR also began an anti-discrimination campaign in the far-western region just this week with a troupe of professional actors performing a play entitled "Kali Woman" – to raise awareness of the effects of discriminatory practices.



And continuing the theme of embracing diversity, I would like to again recommend that the government of Nepal ratify the Convention on the Rights of Persons with Disabilities at the earliest opportunity.

Yesterday I traveled with Ambassadors and Heads of Mission from 8 countries and the European Union to several villages in Bardiya District in the Mid-Western Region. There, on the anniversary of the release of my Office's report on conflict-related disappearances in Bardiya, we listened to the chilling stories of family members of men and women who had been disappeared by the Nepal Army or abducted by the Maoists. Not only did these families lose their loved ones to acts of violence, but they now suffer huge economic hardship – and often discrimination – including discrimination against women and children whose status in the community has been called into question after their husbands or fathers were abducted or disappeared.

These victims in Bardiya - these citizens of Nepal - have been listening to the commitments made by local and national government officials and party leaders. And they are frustrated because there has been so little action taken to fulfill these commitments. No-one has been made accountable. Some perpetrators have been promoted. Criminal investigations have not moved forward. And both Government and party officials continue to turn a deaf ear to their concerns and needs. Indeed, this is the exact word used by one of the women who spoke to the delegation of Ambassadors. She feared that the Government had become “deaf” to their concerns.

I am afraid that such feelings are not limited to Bardiya. But it is not too late. OHCHR hopes that the Government and party leaders will make addressing the concerns of victims - victims of violence such as that in Bardiya, and victims of all forms of discrimination – a top priority. Nepal cannot afford to let these voices be drowned out by the politics of Kathmandu.

One important step towards effective transitional justice would be the establishment of the Disappearances Commission, and the Truth and Reconciliation Commission, as required by the Comprehensive Peace Agreement. The Disappearance Commission should be established as soon as possible, and be fully consistent with international standards, to make progress towards truth, justice and reparations.

The constitution-building process offers an unprecedented opportunity for Nepal to address long-standing discrimination and social exclusion. I am pleased to see that the draft submitted by the CA Committees include a number of important provisions including more comprehensive non-discrimination clauses and a wider stipulation of economic and social rights. However, in other areas are concerns, including the Judicial Committee's proposal to shift the authority for determining the constitutionality of laws from the Supreme Court to a parliamentary committee which would remove independent scrutiny over parliamentary decisions. Similarly, the absence of a guarantee to an effective remedy for victims of human rights violations is worrying.

During 2009, my Office has continued to observe public security lapses, and the level of violence remains too high. It is vital to avoid escalation and that steps are taken by all to reduce violence, including by armed groups and youth groups associated with political parties. Since the



implementation of the government's Special Security Plan, and the increased police presence, there is the perception in some troubled districts of a reduction in crime and armed group activity. While such a development is positive, human rights must be respected. I am seriously concerned to report that my Office has documented at least seven credible allegations of extra-judicial killings by police occurring in 2009. These incidents should be investigated by an independent body able to properly investigate allegations against members of the security forces.

I am also concerned about the effect that the continuing political deadlock, and the obstruction of parliamentary proceedings, is having on both the democratic process and the human rights situation. The International Covenant of Civil and Political Rights guarantees democratic and political rights and the prolonged suspension of parliament impinges on the right of Nepalis to a functioning democratic process. Human rights are at the heart of the Comprehensive Peace Agreement and the resumption of parliament is central to progressing human rights goals in Nepal.

An effective national human rights protection system is the key to long term human rights protection and promotion in Nepal. My Office remains committed to strengthening the capacities of civil society and human rights defenders and the national institutions including, of course, the National Human Rights Commission. After agreeing Guidelines for Cooperation in February of this year, our two offices have worked ever-closer together, including through joint monitoring activities between our field offices. I am very much looking forward to working even more closely with the NHRC in 2010 as OHCHR-Nepal will be the principle implementing partner with UNDP for a new Strengthening the Capacity of the NHRC project.

However, OHCHR remains concerned that the vast majority of the recommendations that the NHRC has submitted to the government have yet to be implemented. While I welcome the government's fund established to provide compensation to victims of human rights violations, in many cases this will only represent a partial implementation as the NHRC has also recommended action to be taken against the perpetrators of those violations and for necessary reforms to prevent reoccurrence. I urge the government to fully consider the recommendations and take the necessary steps to remedy verified violations of human rights.

Autonomy, independence and impartiality are essential principles for an effective and credible NHRI. OHCHR is concerned that there is no reference to these principles in the draft NHRC Act, recently registered by the government at Parliament. I urge parliamentarians to ensure that the law provides for a strong, independent and effective NHRC.

The National Dalit Commission has a vital role to play but has stagnated for a number of months following the end of the mandate of the previous Commissioners. I encourage the appointment of new Commissioners as the earliest opportunity, and the passage of an Act on the Dalit Commission to allow its mandate to be properly enshrined by law.

A vibrant civil society is an equally important component of a comprehensive national protection system. I congratulate our friends on the Human Rights National Magna-Meet-2009 and the broad efforts to strengthen the human rights community. Human rights defenders operating far from



Kathmandu at the grassroots level are the front line of human rights protection, facing significant challenges, often with few protections of their own. In the past year we have seen a number of incidents where human rights defenders and journalists have been subjected to threats, intimidation and worse, both by state and non-state actors. The High Commissioner stressed at the conclusion of her March 2009 visit to Nepal that she "urge[s] the Government to take concrete steps to ensure the security of human rights defenders, including journalists, who are the first line in defence of the human rights of all Nepalis" and the lack of progress on this issue remains a matter for urgent government attention. I encourage the government to invite the Special Rapporteur on Human Rights to visit Nepal soon. She has indicated her willingness and availability to come. Her visit would allow a thorough assessment of the situation of HRDs and would also provide concrete recommendations as to how the protection systems can be improved.

To conclude, I would like to emphasise that the promotion and protection of human rights is a joint effort by government, national institutions, civil society, international organisations such as OHCHR, and individuals. Our work is complementary and only by working together can the progress be made that is essential for a "New Nepal" in which this great country's diversity is embraced wholeheartedly and every Nepali feels respected as a citizen equal with any other. I urge all our human rights friends today to join hands and renew our commitments to the people of Nepal. OHCHR-Nepal is honoured to be invited to continue to contribute to the process of strengthening human rights promotion and protection in Nepal. Thank you.

