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## NHRC urges govt to implement rule of law

National Human Rights Commission (NHRC) on Monday, April 2, has released a report on the human rights situation in Nepal after the signing of the Comprehensive Peace Accord (CPA) by the Government of Nepal and the CPN (Maoist).

In the report, NHRC has stated that the Maoist camps contained quite a significant number of children below the age of 18.

The report has given a detailed account of the human rights situation of Nepal from October 31, 2006 to 25 February, 2007. The report stated that children were recruited through the enticement of large salaries and on many occasions, were coerced to join the Maoist against their will.



Officiating Secretary Nepal unfolding the report amidst the press conference

The report gave the account of the hardships that Maoist were facing due to the lack of basic needs like drinking water, electricity and medical facilities in the cantonment. Proper medical facilities, in the cantonment, were not available even to the pregnant women. They were found to be in deteriorating health condition.

Despite the peace pact, the Maoists had come out of their cantonments in Siraha, Saptari, Udaypur, Ilam and Nepalgunj, the report stated. Possession of arms by the Maoist MP during the session of the Legislative Parliament has demonstrated the irresponsible acts in a direct

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## Ratify UN Convention on Rights of the Persons with Disabilities: Stakeholders

National Human Rights Commission (NHRC) and National Federation of Disabled Nepal (NFDN) jointly organized a workshop on Advocacy for Ratification of UN Convention on Rights of Person with Disabilities on 24 March amid the three-day People's SAARC conference held from 23rd to 25th March in Kathmandu with the objective of developing people to people contact among the citizens of South Asian Association for Regional Cooperation (SAARC) countries.

Presenting a paper on the UN Convention at

the workshop, Birendra Raj Pokhrel, president of the NFDN, said, "The existing law on the disabled is based on charitable prospective while the convention has ensured the right-based perspective of the disabled. The ratification of the convention would help to pressurize the authorities concerned to ensure the rights of the disabled."

The UN convention has 50 articles based on the principles of inherent Disabilities to ensure the rights of the disabled.

They also said that

the government's passivity towards the people with physical disabilities is the main reason for not being able to mainstream people with physical disabilities. More than a hundred representatives of the different organization of Nepal, India and Bangladesh participated in the workshop.

Punya Prasad Neupane, Secretary at Ministry of Women, Children and Social Welfare was on the chair.

The programme was supported by CDNHR/UNDP.



Former Justice Aryal and Resident Representative of UNDP Kahane jointly inaugurating the workshop on the Rome Statute of the ICC

## Experts demand immediate ratification of Rome Statute

Human rights activists and legal experts urged the government to immediately promulgate the Rome Statute of the International Criminal Court (ICC) to end the culture of impunity in the country.

Speaking at the workshop organized by National Human Rights Commission and supported by CDNHR/UNDP, in the capital on April 1, they urged the government to immediately ratify the statute to show the government's commitment

towards protection and promotion of human rights.

## NHRC is without commissioners for last nine months

Laxman Prasad Aryal, former Justice of the Supreme Court, said that as Nepal

has expressed its commitments for the protection and promotion of human rights by ratifying various international statutes in the past, it should not delay in ratifying the 'Rome Statute' to make all violators of the human rights accountable.

Aryal, who was also the coordinator of the interim constitution drafting committee told the participants that though they had put a provision for ending impunity in the draft of the interim

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## Non compliance of CPA by Govt, Maoists in Far West

National Human Rights Commission, Regional Office at Dhangadhi has said that although the human rights situation in the far western region of Nepal is improving, the violation of human rights are still found in the region after the signing of the Comprehensive Peace Accord (CPA).

Releasing a report on the human rights situation in the region three months after the signing of the CPA, Kosh Raj Neupane, the officiating director of NHRC Regional Office at Dhangadhi, said that there were ample of cases of non-compliance of the CPA both from the government and the Maoist sides.

Although the internally displaced persons (IDPs) were found to be returning home, most of them were unable to find their homes worth living with the broken buildings and untraceable properties, stated the report. Compensation of Rs.5, 000/= was not enough to address the hardships faced by the IDPs, the report noted.

Despite the Maoists' claim of returning the properties to the IDPs, they have not found their belongings intact.

The report stated that the people's courts of Maoists are still functioning and giving verdicts to the case handled by them in the district of Baitadi. It has also been found the Maoists have threatened the women of the district to face the consequences if they wore the ornaments. The report has also taken into the account that the Maoists had created obstruction in reconstruction of police posts in the district of Kanchanpur.

## Rally against human trafficking

A rally was organized on April 8, 2007 in order to create awareness against the trafficking in women and children. Speaking on the occasion, Mahendra P Shresth, joint secretary of MoWSCW; Padma Mathema, National Rapporteur of NHRC-ONRT;

Anuradha Koirala, Chairperson of Maiti Nepal and Shanta Thapalia, Chairperson of LAAD highlighted the need of creating awareness in all the sectors of the society against the human trafficking.



Representatives of the various organizations and students participated in the rally which was jointly organized by National Human Rights Commission-Office of the National Rapporteur Against Trafficking, Maiti Nepal, Social Welfare Council, ABC- Nepal, ATSEC Nepal Chapter, CAC-Nepal, CCWB, Child NGO Federation, CWIN, DECONT, Didi Bahini, ECPAT- Nepal Affiliates, FNC, FWLD, LAAC, Mercy Corps NESHROW, Prayas, Pro-Public, SC-US, Shakti Samuha, Sneha Samaj, UCEP-Nepal WDO and WEPCO

## Right activists demand formulation of law to protect HR defenders

Human rights activists have raised the voice for enactment of a law incorporating the provisions of the UN Declaration of Human Rights Defenders 1998.

Participating in an interaction program organised by NHRC to commemorate the first death anniversary of Daya Ram Pariyar a staff of NHRC on March 31, they said law is required to protect them while on duty. Late Pariyar, died of bullet injuries he sustained from indiscriminate police firing while he was on duty in Janakpur last year.

Presenting a working paper Basudev Bajagain, Protection Officer of NHRC, said, "There is no law to protect human rights defenders on duty. So, there should be a law providing protection to human rights defenders in the context of their work."

Bal Krishna Dhakal, member of Nepal Bar Association, suggested that provisions for protection of human rights defenders be incorporated in the

NHRC Act.

Prakash Chandra Pariyar, a journalist and elder brother of Pariyar, has demanded that the guilty in the killing of his brother be punished, and the late Daya Ram Pariyar be declared a martyr.



Late Daya Ram Pariyar



Human Rights defenders paying tribute to Late Daya Ram Pariyar on his first death anniversary amid a memorial program held at the NHRC Headquarters.

## NHRC urges govt to implement rule of law...

violation of the peace treaty, the general people still feel terrorized by Maoists still retain hold of a majority of this property although they had agreed to return the government, public and private property seized during the decade long armed conflict.

Meanwhile, the Maoists had seized a private house in Harnamadi, Makwanpur and converted it into a jail where 19 people were imprisoned. Because of the Maoist atrocities, 350 people from 49 families have been forced to flee the country and go to India, the report said.

The Commission has found the government also guilty of human rights violations during the period spanning three months after the signing of the CPA.

There have been reports of atrocities against journalists by the security forces. During the violent Terai agitation, both Maoists and the government had violated human rights time and again.

Both the Maoists and the security forces were found to be using fire arms against the general public. The report stated that MPRF agitators had attacked 18 journalists, blaming them of failure to carry out media coverage per

their demands. The agitators also had attacked injured people undergoing treatment at a hospital in Sarlahi. Although the movement was supposed to be unarmed, the protesters took to streets carrying baton, rods, knives and various other household weapons.

Even after the peace accord, the Maoists have not totally given up activities like abducting schoolchildren and forcing them to participate in party program. The report lauded the positive sides developed after the signing of the CPA mentioning that there has been a significant decrease in activities like bombing educational institutions, armed attacks, killings and overall violence. The report states that although the Commission has remained without commissioner for last eight months, the government has not shown any interest to fill the vacancy which has caused major hurdle in the decision making process.

Addressing the crowded press conference, Dhruva Nepal Officiating Secretary of NHRC said that although the investigation of the Gaur incident had already been completed, a separate report on the incident would be provided later. The report has cautioned the government to take initiative in order to implement the rule of law in the nation.

## Experts demand ...

constitution, the eight political parties had deleted the provision later while promulgating the interim constitution. He alleged that both the government and the Maoists are not willing to ratify the Rome Statute as both the parties were involved in rights violations in the past.

Matthew Kahane, Resident Representative of UNDP said that signing of Rome Statute would be helpful for the protection and promotion of human rights.

He lauded the role played by NHRC, the national rights watchdog even in the absence of commissioners.

Bishwo Kant Mainali, President of Nepal Bar Association, Shova Gautam, President of Institute of Human Rights and Communication, and Secretary, Dhruva Nepal, the officiating Secretary of NHRC, have urged the government to immediately ratify the Rome Statute.

On July 25, the reinstated House of Representatives had passed a resolution directing the government to ratify the ICC Rome Statute expressing firm commitment against all forms of crime against humanity.

ICC is an independent, permanent court that tries persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes. ICC is based on treaty joined by 104 countries.

## Farewell friends.....!!!



Officiating Secretary Dhruva Nepal and NHRC staff members bidding farewell to Diana Baker who returned home in Australia after serving the Commission as CDNHR/UNDP advisor more than two years. Her last duty station was in NHRC Biratnagar Regional Office.



Officiating Secretary Dhruva Nepal and National Rapporteur of ONRT Padma Mathema and other staffers of NHRC with Hari Raj Bhattarai, then Report Writing officer of NHRC (in white blue jacket) who reigned from NHRC to join a new assignment in the Norwegian Refugees Council. Ram Praja (with garland), messenger in the NHRC, left the Commission after two years of service to join new assignment in the United Nations Mission in Nepal (UNMIN)



# Implementation of the Comprehensive Peace Accord (CPA)

## An NHRC Report: The State of Human Rights in Nepal

*Summary- April 2<sup>nd</sup>, 2007*

### 1. The Role of the NHRC in Monitoring the CPA:

The Government of Nepal (GON) and the Communist Party of Nepal – Maoist (CPN/M) signed the Comprehensive Peace Accord (CPA) on 21 Nov 2006. In the CPA, both sides announced that the ceasefire would be turned into a long term peace agreement by respecting and being committed to the International Declaration of Human Rights 1948, International Humanitarian Laws, and the basic principles and values of human rights.

In the course of fulfilling this responsibility, the NHRC has prepared this specific report on the implementation of the CPA. This report covers the period from 31 Oct 2006 – 25 Feb 2007.

The report has been prepared on the basis of information received from NHRC investigations, district-level monitoring missions conducted by the Commission, news reports from various newspapers and other media and other various sources.

### 2. State of Human Rights and Exercise:

#### a) Security & Military Issues

The CPA has sought to ensure that both the GON and the CPN/M respect, protect and promote human rights. In Point 4 of the CPA, arrangements are established for the management of weapons and soldiers. According to the CPA, the soldiers of the Nepal Army will remain in their barracks while the soldiers of the CPN/M will be based in temporary cantonments in pre-set places around the country.

Likewise, the weapons of the Nepal Army and the CPN/M are to be stored securely in containers monitored by the United Nations arms management teams.

However, there have been cases of violation/non-implementation of the CPA from both sides. The soldiers of the CPN/M were found to have come out of their cantonments, demonstrated and attended mass assemblies carrying weapons in Siraha, Saptari, Udayapur, Ilam, Nepalganj causing fear among the local population. CPN/M workers were found to be attempting to enter the Parliament in Singha Darbar armed with weapons.

Likewise security personnel from the Nepal Army stationed for the protection of a television repeater tower in Daunne Danda of Nawalparasi district were found to be involved in a drunken brawl and beating locals, as well as vandalising shops.

#### b) Maoist Cantonments

The physical infrastructure in the Maoist cantonments is in a very critical state, with no proper facilities for drinking water, fuel, or medicine. Pregnant women with serious health conditions were also found in the camps; however, there were no proper health and medical facilities available. Due to the lack of infrastructure in the camps, soldiers of the CPN-M in Shaktikhore of Chitwan district were using private houses in the villages and even toilets in schools. The GON has been giving financial aid to improve the conditions in the cantonments while local initiatives have also been taken.

#### c) Right to Life

During this period, thirty-one people lost their lives during the protests and demonstrations in the Eastern and Mid-Tarai region of the country; a majority of whom died due to police firing and beating.

After the death of Ramesh Kumar Mahato in Lahan, Siraha, due to bullet wounds received from shots fired by the CPN/M during clashes between the Madhesi Janadhikar Forum (MJF) and the Maoists regarding disputes about shutdowns called by the MJF, protests and demonstrations spread across the Tarai. These protests led to four deaths in Siraha, six in Sarlahi, two in Parsa, five in Morang, two in Sunsari, two in Dhanusa, three in Saptari, four in Bara, one in Banke.

A majority of the dead were killed due to police firing while three people died in clashes between Jantantrik Tarai Mukti Morcha (JTMM) Jwala Singh and Goit groups.

#### d) Effect of the Parallel System of Government Established by CPN/M

Government of Nepal teams on a mission to collect voter lists for the Constituent Assembly were obstructed from doing their work by CPN/M cadres in the Kathmandu municipality, Dhading, Lalitpur, and Sankhuwasabha, along with few other VDCs. The CPN/M cadre threatened GON officials with the cutting off of their limbs and snatched the collected name lists from these workers.

In order to hold a free and fair Constituent Assembly election, the rights of political competitors should not be abused. All groups have the right to political freedom. The people have the right to vote and elect their representatives without fear and with freedom, but such an environment has not been created, therefore, violating the commitments made in the November 2006 CPA.

#### e) The State's Delay in Fulfilling Its Responsibilities

The CPA and the Interim Constitution of Nepal 2063 initiated by the State can be taken as significant achievements for the institutionalisation of democratic rule and the assertion of human rights. However, even when the state of the nation's human rights is so critical, the Government of Nepal has not yet appointed new officials to the National Human Rights Commission, thereby obstructing the protection of the rights of the people of Nepal.

#### f) Positive Aspects of the CPA

After the signing of the CPA by the GON and the CPN/M, there has been a decrease in the number of killings and mutilations, forced closure of educational institutes, military attacks, bomb explosions in schools, and the displacement of people. The CPN/M cadres have also begun to be busy in their political activities. There is hope that the nation's peace will be long lasting and that development activities will be implemented without any hurdles.

Also, because the Maoist army and weapons have been kept in temporary camps monitored by the United Nations, after the CPA there has been an improvement in the feeling of personal security which has allowed some internally displaced people (IDPs) to choose to return home. In addition, the indigenous peoples and ethnic minorities in Nepal are making their demands peacefully. There have been improvements in the political rights of individuals to assemble, spread their organisations and conduct political activities.

### 3. NHRC Role in Protecting Human Rights in Nepal

NHRC has received 640 complaints during this reporting period. Most of the complaints regard disappearances and deaths before the ceasefire. There have also been complaints of human rights violations by the State security forces who are accused of arresting, torturing and disappearing people. During this same period, the Maoists have been accused of confiscating property, threatening and torturing people, bringing individuals to their "People's Court", insisting upon financial compensation, and deciding unilaterally on meting out punishments. Among the complaints received by the National Human Rights Commission during this period, 157 cases have been monitored while investigations are not yet completed in 281 cases. Those accused of abuses have been requested by the NHRC not to obstruct other's human rights.

### 4. Summary Conclusion

The Comprehensive Peace Accord (CPA) on November 21<sup>st</sup> 2006 declared the end of Nepal's armed conflict. However neither the Government of Nepal nor the CPN/M have been fully implementing the commitments they made in the CPA in actual practice. Similarly, officials for the NHRC and other commissions have not been appointed. Also, although the Government has been asked to ratify the Rome Statute regarding the International Criminal Court, it has not been done.

Most importantly, the State still needs to implement in practice the rule of law throughout the country, provide adequate arrangements for peace and security, investigate and punish those found guilty of breaking laws, and provide the truth about disappeared people to their families. As those accused of human rights abuses during the conflict have still not been brought to justice as per the recommendations of the National Human Rights Commission, the State has not fulfilled its responsibilities.

In all situations, the State should respect the individual's right to protest and only use minimum force to quell such protests. Demonstrators must also be aware not to obstruct other citizen's human rights when expressing their own fundamental rights. The CPN/M must also respect the agreements made within the Comprehensive Peace Accord and other's human rights.