

## STRATEGY OUTLINE

The Strategy Plan 2004-2008 (B.S. 2060-2065) is based on the lessons learnt during the evolutionary first 3 years of the organisation and feedbacks received from various sectors, including the Members and the staff of the National Human Rights Commission, as well as several national and international stakeholders.

The mission statement of the NHRC is defined as follows:

*“Our mission is to develop a culture of human rights in the country by taking a leading role as an independent and impartial national institution for the protection and promotion of human rights in accordance with universally recognized human rights principles.”*

The critical issues that the NHRC is geared to address are human rights violations due to the State and the Maoists conflict; protection of fundamental rights of the people; violence against women with focus on trafficking, witchcraft, domestic violence, sexual harassment; child rights with focus on education, exploitative labour and violence; people’s right to food, health, shelter and work; ratification, domestication and implementation of international instruments; human rights awareness and education; and, last but not least, the issue of impunity. To support its work in these important areas, the NHRC

has identified urgent need to enhance the organisational management and efficiency. Accordingly, the following strategic objectives have been set.:

1. To contribute to peace building process by ensuring that the parties to the conflict are fully in compliance with the international standards for human rights and humanitarian law.
2. To promote, monitor and enforce the guarantee of fundamental rights of the people with focus on the right to life, liberty, justice and equality.
3. To advocate the right to food, health, shelter, education and work as the fundamental rights of the people with special attention to improving the human rights situation in the most underdeveloped regions of Nepal.
4. To help improve the legislative and regulatory mechanisms for control and cessation of: a) domestic and dowry related violence against women and b) trafficking of women.
5. To help improve legislative, monitoring and enforcing arrangements for the elimination of violence against children in the form of trafficking, abuse, exploitation and the use

of children in conflict.

6. To improve the extent to which international treaties and conventions are ratified, domesticated and implemented in Nepal.
7. To promote, develop and provide education, information and advice about human rights.
8. To transform the image of the organisation

**by increasing its efficiency and acceptance across all sections of Nepalese society.**

To achieve the strategic objectives, the Commission will make the best use of the power vested to it under the Human Rights Commission Act, 2053 and reorganise the Commission to enhance its work efficiency and effectiveness. In addition, it will build a network of partners and supporters for implementation of the Strategic Plan, expand its accessibility and mobilise the necessary financial resources.



## ORGANISATION PROFILE AND HISTORY

The National Human Rights Commission (NHRC) was established on 26 May 2000 (13 Jetha 2057) in accordance with the Human Rights Commission Act, 1997. Since its inception, the NHRC has been facing a range of challenges typical to a new organization. A major challenge has been the deteriorating human rights situation in the country because of the conflict between the State and the Maoists. A limited number of staff and inadequate budget for its effective operation have been two major obstacles. Notwithstanding these constraints, the NHRC has undertaken a number of initiatives to protect and promote human rights of the people of Nepal, which is its statutorily defined mandate. These activities are helping the NHRC to progressively achieve what it has been set to do by making its existence felt to the stakeholders. It has established itself as an independent and credible human rights institution.

There are milestones as well. In the year 2000 (2057), the NHRC introduced the Complaint Handling and Compensation Determination Regulation and joined the Asia Pacific Forum of National Human Rights Institutions. In the summer of 2001 (Jetha 2058 BS), to take an example, the NHRC recommended His Majesty's Government to compensate the

families of each prisoner killed in Nepalgunj Prison making the perpetrators responsible for the death of the prisoners. The NHRC recommended His Majesty's Government to make individuals accountable for the act of human rights violations by requiring them to share the cost of compensation. Since His Majesty's Government paid the entire compensation, the NHRC drew attention of the His Majesty's Government to the possibility that the act of not making perpetrators accountable encourages violation of human rights and that it is an improper use of the public treasury. Another example is the arrangement of public hearings in Butwal and Lahan on the issue of a missing person and civil disobedience by Chamars in protest of the discrimination against them.

Lately, the Commission is seriously looking into the incidents of violence against women on alleged

### Selected Key Statutory Functions of NHRC

- Protection and promotion of human rights as its primary responsibility by carrying out:
- Inquiries and investigations on HR violations;
  - Visit, inspect and observe any authority, jail or any organization under His Majesty's Government and to submit necessary recommendations to His Majesty's Government on necessary reform;
  - Review the constitutional and legislative provisions for enforcement of human rights and make recommendations for effective implementation of such provisions;
  - Recommend to His Majesty's Government for effective implementation of the related provisions of international treaties and instruments;
  - Evaluate the existing human rights situation of the country;
  - Recommend to His Majesty's Government on reports to be submitted by Nepal to treaty monitoring committees and give opinion on the reports prepared for submission to the committee.

charges of practicing witchcraft. As an immediate intervention, it has recommended to His Majesty's Government to create strong legal mechanisms to take serious action against the perpetrators involved in witchcraft cases and provide as compensation an amount of Rs. 50,000.00 to the family of a woman who was killed and Rs.30,000 to the victims who were beaten and subjected to inhuman treatment. The government was made liable for its failure to put in place a strong and adequate legal mechanism to protect the people.

The Commission has also been regularly monitoring human rights situation in the conflict areas. In the years 2002 - 2003, it monitored human rights situation in 41 districts which were most affected by the violent conflict between the State and the Maoists and published a report based on its findings. Following the ceasefire announcement on 13 March 2003 by both parties, it proposed a draft code of conduct to both the parties to uphold the ceasefire. Lately, it is actively advocating for the signing of a Human Rights Accord by the State and the Maoists and holding dialogues with the political parties and the civil society to contribute to the peace process from a human rights perspective

Considering the seriousness of the problem of trafficking of women and children, the Commission established the Office of the National Rapporteur on Trafficking in Women and Children in December 2002. The office has become the focal point for trafficking issues and is facilitating the work of the Commission in several ways.

The Commission also published a research report, in cooperation with the Centre for Victims of Torture (CVICT) on the study of insurgency-related torture and disability in the regions affected by the State-Maoist conflict and also implemented a small project to raise awareness on Dalit rights. A report on the

situation of human rights in Nepal covering the key areas of civil, political, economic and social rights is, at present, in the press.

The Commission has been developing professional relationships with human rights NGOs and the state apparatus, including various human rights cells in the army, the police and the Home Ministry. Likewise, it has established effective partnerships with a few members of the international community who are interested in promoting human rights in Nepal along with the members of the Asia Pacific Forum of National Human Rights Institutions. The NHRC is going to convene and chair the 8<sup>th</sup> Annual Meeting of the Forum as well.

As one of the reasons for the violation of human rights is lack of knowledge and awareness about human rights, the Commission has conducted various promotional activities targeting police, government officials and other actors. A radio programme on the issue of Dalit rights was launched for 8 weeks with nationwide coverage. A documentation centre has also been established with the assistance of the Danish Institute of Human Rights and is in the process of evolving. A fortnightly e-Bulletin has been a regular and significant feature of the Commission's work. The e-Bulletin has proven to be an effective medium of informing national and international stakeholders about the work of the Commission. It has inspired some national and international agencies to launch their own e-Bulletins as well.

Late last year, the Commission recruited 20 permanent staff to increase its staff size to 27. Now it is contemplating adding some more staff to effectively implement the strategic plan. In early 2003, it went through a restructuring process for the effective execution of its duties and created five divisions with specific functional areas and terms of

reference for the staff. The existing office set up, which will include a special complaint-handling desk that is also accessible to persons with physical disabilities, is being improved to make its operations functional. The desk will be backed by a computerised complaint handling system, which is being developed in collaboration with the Canadian Human Rights Commission and the Indian National Human Rights Commission. A comprehensive complaint handling procedure is also being developed.

As one of its statutory functions, the Commission has reviewed the periodic report of the His Majesty's Government on the Convention on the Rights of the Child to the UN treaty monitoring body. Currently, it is preparing a list of Acts and procedures to address the issue of discrimination, torture, fair trial, child rights, violence against women, etc. and to bring them into line with the internal treaties and conventions.

The Commission carried out inspection visits to several prisons to assess the legality of detention and the physical conditions of the prisons. It has recommended improvements to the government in the security, health, sanitation and legal treatment of the prisoners as well as improvements in the physical facilities of the prisons.

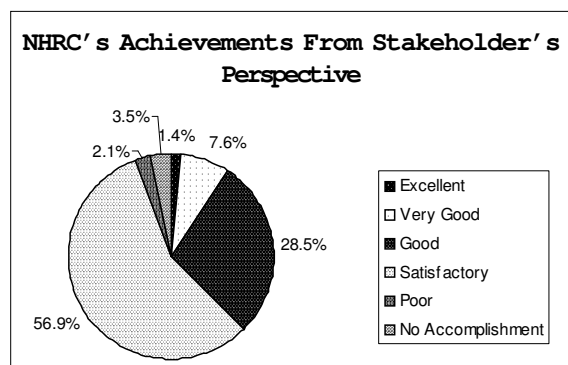
One of the most significant works of the Commission has been its contribution towards the peace process by proposing a draft ceasefire agreement and code of conduct to be followed by the parties to the conflict. Later, it proposed a draft human rights accord to the both parties and lobbied for their acceptance.

NHRC played an important role in facilitating fulfilment of reporting requirement on UN Convention Against Torture and Other Cruel and Inhuman or Degrading Treatment or Punishment.

As a result, focal points in various ministries have been set up and two training programmes have been organised in treaty reporting procedures for HMG staff. NGO personnel were also included in the training to help them prepare better shadow reports on the implementation of treaty.

His Majesty's Government has been facing difficulties in submitting reports to treaty bodies both in time and in quality. To facilitate such submissions, the Commission organized a "Seminar on International Human Rights Reporting Obligations of His Majesty's Government" involving secretaries of different Ministries. As a result, focal points in relevant ministries have been identified and the Cabinet Secretariat has assumed overall coordinating responsibility. A five-day training workshop on UN reporting under the Convention Against Torture and a weeklong follow-up workshop have been organised for government and non-government staff.

The Commission fielded a high-level probe-committee to investigate the violation of humanitarian laws by the Army in Doramba, Ramechhap District, where 18 people were killed. Similar probe-committees were sent to Nagi, Panchthar and Dhangadi, Siraha to investigate incidents involving murder of security personnel and civilian by the Maoists. Formation of such committees and the nature of their work to investigate serious human rights violation is the first



of its kind in the short history of NHRC. As a result of the investigations, the Royal Nepal Army has appointed a court of inquiry to reinvestigate the Doramba case.

The stakeholders' general perception about the Commission's performance so far has been satisfactory. Of the total respondents, 57 percent and 31 percent found the performance as satisfactory and good respectively. Only 1 percent reported poor and 3 percent of the respondents felt that no achievement has been made.

Since the formulation of the first strategic plan in the year 2000, which is ending this year, the human rights situation in the country has become worse. *The Commission has taken some major strides despite numerous external and internal challenges posed by the conflict and resource constraints, etc., but more work is required with a clear focus on making full use of opportunities that are available to it. As such, this new strategic plan has been developed for the next five years.*



## STRATEGIC PLAN PREPARATION PROCESS

The “Strategic Plan 2004-2008” is an outcome of the invaluable experience of the Commission during its first three years and the analysis of the feedback, especially on key human rights issues received from all the stakeholders. The priorities have been set, based on human and financial resources that are available and likely to be available to address them in the plan period.

As the first step for its preparation, a seven-member Strategic Planning Committee was formed with one of the Members as the Coordinator of the Committee. A retreat of Members and staff was organized to review the existing mission and vision statement of the Commission and prepare the revised version. At the retreat, the staff and Members identified the core values that would guide the work of the Commission in pursuant to its purpose, along with immediate, mid-term and long-term human rights issues faced by Nepal. Analysis of strengths, weaknesses, opportunities and threats (SWOT) was also carried out, and in addition, a separate half-day SWOT analysis was conducted with the Commissioners.

A workshop with the staff was organized to identify key external stakeholders. Following that, a stakeholder survey questionnaire, both in electronic and print form, was prepared in English and in Nepali and distributed to various stakeholders, e.g., various offices of His Majesty’s Government, commissions, Nepalese HRNGOs, independent experts, the

judiciary, media, political parties, professional organisations, UN agencies, diplomatic missions, donors and international human rights organisations. Former employees of the Commission were also invited to participate in the process. A half-day special session with the media was organised to assess their perception about the work of the Commission and priority human rights issues were discussed. All total, 153 responses were received from various stakeholders, including significant number of responses from the His Majesty’s Government. Participation of the international community in the process was also encouraging.

As budgetary constraints - a major hurdle for effective functioning - have not permitted the Commission to follow a systematic approach to address human rights issues, most of the interventions in the past have been short-term. Therefore, except for a project to monitor the human rights situation that was approved for six months and then extended for two short durations, and one research grant project, there has not been any systematic project intervention and evaluation of effectiveness of the interventions. Lessons learnt by the organisation (see below) while implementing regular activities and the “Responding to the Crisis Project”, as well as the recommendations from external consultants on the design of the Project form the basis for the new strategic plan. Also, the staff and Members participated in an organisational self-assessment exercise to examine where the organisation stands

with regard to leadership, administrative and managerial efficiencies.

The draft versions of the Strategic Plan were extensively discussed with the Members and the staff

to arrive at this stage. The draft document was circulated to a select group of organizations soliciting their feedback. In addition, the document was posted on the website of the Commission for feedback from other stakeholders.

#### Key Lessons Learnt

- Strategic planning and annual program plan based on the strategic plan should be the basis for the Commission's effective operation, as fragmented interventions have not produced the desired impact.
- Complaint handling should be made more result-oriented by establishing clear policy and procedures as well as recruiting sufficient staff to manage the caseload.
- Internal teamwork of the Commission and sound management and administration of organization to draw and retain professional staff are a must to maximize its impact.
- A streamlined and professional relationship both on the part of the Commission and the donors is necessary to avoid ad-hoc intervention and delays in project funding.
- Lack of adequate core funding from the His Majesty's Government is going to create donor dependency and lack of sustainability. Thus, the state's fulfilment of its financial obligations from core fund is necessary for effective functioning of the Commission in long-term.
- The dependence on short-term funding almost inevitably leads to a short-term vision; hence the fundamental importance of establishing adequate government core funding.
- The Human Rights Commission Act should be improved to make the work of NHRC more effective.
- People should be made aware of role and functions of NHRC and human rights values.
- Better participation of stakeholders in the operation of NHRC is needed.



## MISSION AND VISION STATEMENT

### **Mission Statement:**

*“Our mission is to develop a culture of human rights in the country by taking a leading role as an independent and impartial national institution for the protection and promotion of human rights in accordance with universally recognized human rights principles.”*

### **Vision Statement:**

*“We envision a Nepalese society where all the people enjoy their rights equally with freedom and social justice, and where impunity is not allowed to prevail.”*

## CORE VALUES

The Commission has identified the following 6 values as the guide to its Members and staff in their pursuit of human rights promotion and protection. These values will be applicable also to the external parties, both national and international, that engage with the Commission and are directly involved in the management of projects or activities with it.

### A. Equality

As a national human rights institution, the Commission will always strive for equality in all aspects of its work, both inside and outside the organization and is committed to the principle of equal opportunity for all. It will also uphold the principles of equal protection.

Issues related to women, Dalits, ethnicity, physical disability and geographic representation will be given serious consideration in staff recruitment to ensure equality of opportunity, and special provisions will be made to attract those groups. The Commission will adopt specific policies to ensure that all people receive an opportunity to be employed in the Commission as well as to participate in the work of the Commission in accordance with the equality rights guaranteed in the Constitution. Members and the staff will be trained in equality, gender and ethnic issues. Audits will be conducted to examine gender, Dalits, ethnicity, disability and geographic balance and sensitivity in the rules, procedures, forms and

formats of the Commission to improve equality in its work. One of the Members of the Commission will monitor the implementation of the principle of equality and submit annual report to the Chairman highlighting the progress and areas needing further action.

### B. Impartiality

The Commission has identified six key factors, namely gender, caste, race, religious beliefs, class and political opinions, which could lead to partisan behaviour in its work. In this regard, the Commission will give due respect and attention to all visitors on equal basis irrespective of their gender, age, social, economic, political or hierarchical status. The same will be fully accorded to the staff and Members of the organization. The Commission will treat everyone equally, unless at times when it would be necessary for it to set priority on the basis of the need and urgency.

The Commission is committed to fair and impartial hearing of complaints or issues submitted for action. The decisions of the Commission will always be based on objective assessment of the evidence and always in accordance with prevailing legislation and internationally accepted rules and principles of human rights.

Personnel administration and management will always be in accordance with fair and established rules and procedures. Matters concerning staff recruitment,

training and development will be firmly based on fair policies and the principle of equality in treatment.

While being impartial, the NHRC will remain sensitive to the issue of justice to the victims.

### **C. Accessibility**

The Commission will keep access to its office open to any individual and organization and welcome them on official business. In order to increase access to the people, the Commission will continue to mobilize its efforts to open regional offices and/or establish other alternative arrangements to provide effective nationwide access to the services of the Commission. Likewise, the Commission will periodically visit various parts of the country, especially the remote areas, prisons and detention centres, and will remain open to any invitation to meet and discuss human rights issues in any part of the country. The Commission will improvise its office set up to enhance its accessibility to people with disabilities, including the provision of language interpreters and sign language interpreters. In addition, the Commission will ensure that the visitors will have free access to the Commission, though they will have to disclose their identity in confidence to the staff of the Commission for internal purposes.

Language being another barrier, the Commission will prepare its annual reports and other major publications available in two major languages of Nepal – based on current national census – starting in 2004 with one more language in addition to Nepali. Key human rights promotional materials will be published in different languages to reach the diverse ethnic and linguistic groups that exist in Nepal. It will accept complaints in all national languages, starting with three major languages in the year 2004, besides Nepali, and will gradually strive for inclusion of other key languages based on need. Its field offices will receive complaints in the major languages spoken

in the region. For effectively dealing with different languages, it will design staff policy to attract people from different ethnic/language groups, and gradually make the necessary changes in the documents and forms.

A dedicated hotline and a mobile phone for reporting serious kinds of human right violations during off hours, weekends or holidays requiring immediate action of the Commission will be established. In addition, the Commission will make arrangements to open the Complaints Office during the weekends and public holidays and the office responsible will have the authority to act promptly on serious cases.

A small committee comprising one of the Members and a few staff from different ethnic backgrounds will monitor the progress on enhancing accessibility to the Commission. It will submit a half-yearly report to the Commission with specific recommendations in the areas needing improvements, if any.

### **D. Accountability**

The Commission takes full responsibility for proper management and expenditure of funds received from His Majesty's Government as well as from other sources. To ensure that maximum resources are invested for program activities, the Commission will always keep the program support or administrative costs at the lowest level possible.

To ensure that the financial management is of the highest standard, the Commission will appoint an independent, competent and reputed audit firm to conduct internal audit of the expenditure of NHRC on a periodic basis. The auditors will submit their final report directly to the Commission. The Commission will carefully review the report and take necessary action to remedy the issues, if any. The Commission's audited financial statement, which is an inseparable part of its annual report, will be posted

on its web site, and made available to any interested party.

The Commission is equally accountable to the public about the effectiveness of activities for promotion and protection of human rights in Nepal. In this respect, all programmes and projects having a duration of one year or more will be evaluated by an independent evaluator to assess the impact on the human rights situation in Nepal. The findings and recommendations of such evaluations will be incorporated in the annual report of the Commission, which will be made available in print form and in electronic form through the Commission's website. Likewise, internal monitoring will be strengthened to improve planning and implementation. In addition, annual performance plans, which will include the targets for resolution of complaints, law reform, etc. will be prepared on the basis of the strategic plan of the Commission and the progress will be reported to the public and the His Majesty's Government through the annual report.

The Commission will always follow the existing rules and develop additional sets of rules and procedures that are essential for accountable operation, and ensure that they are strictly followed to respect the principle of the 'rule of law' in every aspect of its dealings.

A Code of Practice on the way in which the Commissioners and the staff communicate with members of the public will be developed and implemented. The Chairman will ensure that all the Members follow the code; the Secretary will be responsible for ensuring that the staff members of the Commission, and those working under projects that are managed/co-managed by the Commission, fully comply with the Code. Adherence to the Code by the Members and the staff will be discussed in every quarterly meeting among the staff and the Members, and necessary action will

be taken, when necessary.

A Code of Conduct will be developed and implemented for outsiders, who join human rights monitoring and investigation teams formed by the Commission.

#### **E. Transparency**

Information on, or related to complaints will be kept confidential. The Commission is committed, however, to providing free and smooth access to information about its decisions, policy, work and finance as much as possible. The information will be presented in the annual report and posted regularly on the Commission's website. The Commission's decisions on the matters of public interest will also be posted on the website. Hard copies of the decisions will be made available to the public upon receipt of formal request and upon ascertaining the relevance of such requests. Both parties to the dispute will be given a copy of the decision. In addition, the Commission will respond satisfactorily to any formal query regarding its work, and in this regard, a register for queries will be maintained and one of the Members will monitor the timeliness and quality of the responses. As for the matters of complaints and investigations, the Commission will release the information unless it is unethical and if it does not compromise, jeopardise the case, and affect the safety and well being of individuals, especially those who are involved in the cases.

Regular electronic bulletins and quarterly newsletters in Nepali and English languages will be published to keep the public and other stakeholders informed of our work.

All vacancies in the Commission will be filled in a transparent manner. In this regard, a recruitment policy governing long-term staff and short-term staff, experts, advisers, volunteers and

other service providers will be developed and strictly followed.

The Commission believes that active participation of public and staff in its affairs enhances the level of transparency, therefore it encourages the civil society and other key stakeholders to actively participate in the work of the Commission. In this regard, the Commission will promote and ensure participation of key stakeholders while formulating human rights policies, introducing legislative changes, implementing its activities. Likewise, the in-house decisions on non-routine matters will be made by involving the Members as well as the staff in the decision-making process. Participation of stakeholders will be one of the criteria to determine the quality of the work of the Commission.

A Complaint & Suggestion Box will be set up in the Commission and the Chairman will take necessary action promptly on those complaints. A register will be maintained to log all the complaints, the nature of complaints, and the actions of the Commission.

## F. Independence & Autonomy

The independence and autonomy of the Commission depends on adequate human and financial resources as well as its legal status. In this regard, the Members and the staff of the Commission will work with His Majesty's Government and other key stakeholders to ensure full implementation of the minimum standards as required under the UN General Assembly Resolution 48/134 concerning national institutions for the protection and promotion of human rights.

In addition, the Commission will not be influenced by any undue pressure or influence from any

individual or organisation while executing its duty of promoting and protecting human rights, and will take all the necessary measures to protect the independence and autonomy of the Commission. If and when necessary, the Commission will inform the public about such undue pressure or influence.

Whilst every individual is free to have political views, the Commission's work as an impartial institution will always be free from the influence of partisan political ideologies and preferences.

A committee of staff and Members will periodically meet to review the independence and autonomy of the Commission, document their findings, which will be included in the annual report of the Commission, and ensure that corrective measures, where necessary, are taken.

The Commission will strive to build its own office premises within a period of ten years. In this respect, the Commission will work towards securing adequate

### Special Arrangements to Ensure Implementation of the Values

*A five-member-committee comprising of one of the members and four staff members representing different ethnic background will review the progress on implementation of the above values every six months. They will report to the Commission with specific recommendations in the areas needing improvements, if any.*

*An external audit of the values will be conducted annually to examine the level of implementation of the values by the Commission and to suggest ways and means of institutionalising the values.*



## CRITICAL ISSUES

**A. People are facing a grave threat to past developments and further progress in the field of human rights due to the conflict between the State and the Maoists.**

Nepal is slipping into a deep crisis because of the protracted violent conflict between the State and the Maoists. There have been two ceasefires within the last two years, but both broke down ensuing a new wave of violence. Over seven thousand people have lost their lives and thousands have been displaced. The violence has seriously infringed the right to life and liberty. Violation of Common Article 3 of Geneva Conventions by both sides is common. Education of children has been seriously affected due to the closure of schools in the areas affected by the conflict. Food and medicine supplies are critically affected. The Maoists have used children in the conflict. At the time of the declaration of the second ceasefire, over 17,000 people, including children, have been displaced and the actual number of people still under detention, both legal and illegal, is not known. The number has increased since the break up of the second ceasefire. Extortion and kidnapping by the Maoists have continued even during the second ceasefire period. The House of Representative remains dissolved and the possibility of elections taking place is remote. Mainstream political parties are at loggerheads over the legitimacy of the government. As a result, the country is plagued by a grim human rights situation. Yet, there is no sign of lasting peace, which remains the desire of the 2.3 million people of Nepal.

It is critically important that both the State and

the Maoists declare ceasefire, sign a peace agreement and fully respect the human rights norms. Equally important is the need to deliver justice to the victims of the conflict and address human rights related root causes of the conflict.

**B. A number of fundamental rights of Nepalese people are not adequately protected.**

The advent of multi-party system of governance in 1990 has brought some significant improvements in the situation of fundamental rights – a notable achievement is the guarantee of certain fundamental rights by the Constitution of 1990. However, a lot more effort and work are needed to raise the standards of respect for fundamental rights to a satisfactory level. At its present status, the fundamental rights guaranteed by the Constitution remain either curtailed or violated. For example, the right to equality and liberty, guaranteed under the Article 11 of the Constitution, remains to be implemented effectively, for discriminations are pervasive in the society.

**Right to life, liberty and fair trial:**

Since the beginning of the conflict in 1996, both the state and the non-state parties have violated the right to life and liberty of people. Occurrences of killings, disappearances, use of human shields, arbitrary arrests, detention, abductions, torture and

inhuman treatment have been alarming, notwithstanding the huge loss of life on both sides.

The right to life is also being violated or put at high risk due to negligence of service providers, such as transportation companies and health service providers. In the absence of necessary legal protections, the lives of the people are unnecessarily lost during travel and while seeking medical treatments.

Freedom of opinion and expression has been curtailed by the state under the Terrorist and Destructive Activities (Control and Punishment) Act and the media has faced various kinds of threats. The Maoists are actively engaged in incidents of abductions, torture and other inhuman and degrading treatment, including “disappearances”, the use of people as human shields and killings are rampant. Such actions of the state and the Maoists have seriously jeopardized people’s human rights, especially their right to life and liberty. In addition, the people’s right to associate peacefully has been seriously infringed, especially in regions that are seriously affected by the conflict.

Fair trial is a fundamental right guaranteed under the Constitution, but a number of legislative and procedural factors such as provisions contained in the Public Security Act, the Public Offence and Punishment Act, Terrorist and Destructive Activities (Control and Punishment) Act, and the Police Act adversely affect the right to fair trial. Other impeding factors include inadequate transparency in the judiciary, and the complexity and length of time taken by legal process.

#### **Caste based discrimination (untouchability):**

Caste-based discrimination is widespread. Such a

practice violates the fundamental rights guaranteed by the constitution and international treaties to which Nepal is a party. Weak legislation, poor enforcement and apathy of the state authorities to the issues have been some of the major factors contributing to the violation of these fundamental rights. In addition to creating social disharmony, caste-based discrimination has given impetus to the violent conflict as evident from participation of large number of discriminated and marginalised people in the violent conflict.

#### **Gender based discrimination:**

Women still face discrimination in many fronts. Differential wages in the private and informal sector for the same kind of work, especially in agriculture, construction work, industry and the informal sector is prevalent. The inheritance right to ancestral/family property, citizenship right of women, the practice of identifying only on the basis of paternal lineage, etc. are some of the key gender based discriminations prevalent in Nepal.

#### **Penal reform:**

Nepalese penal system lays great emphasis on punishment with minimum concern for reform and rehabilitation. The system violates a number of rights of the prisoners. The requirement of separating convicted prisoners from those awaiting trials is not practiced systematically. The overwhelming majority of prisoners in Nepal are detained in dilapidated buildings with leaking roofs, very poor ventilation, foul smelling toilets and crowding. However no special provisions are made for the accommodation and special needs of the elderly, mentally disabled, or pregnant prisoners or for those with dependent children. The Prison Act regulates the prisoners’ right to meet and communicate with their immediate family, friends and relatives. It prohibits communication in the inmate’s mother tongue,

if different from Nepali, during family visitation. Prison authorities scrutinize or read all correspondence to and from the prisoners. Furthermore, the prison staff may use any weapon against the prisoners with impunity.

There are no separate prisons for women in Nepal. Women sentenced to imprisonment have to be kept in separate cells from women awaiting trial, but in practice, it is not always the case. Besides suffering from physical and psychological trauma, female prisoners often become victims of sexual abuse and exploitation by prison wardens and male prisoners.

Most of the laws that address prisoners' rights are outdated and not fully in line with international treaties and conventions.

### **C. Violence against women.**

#### **Trafficking:**

Trafficking is one of the critical human rights issues faced by Nepal because it violates several rights of the victim and causes slavery like practice. Various studies, research, and case studies have highlighted the problems faced by the trafficked women and children, who have been deceived by people engaged in human trafficking. In addition, the absence of clear and uniform understanding of trafficking among various offices of His Majesty's Government has been a problem in addressing the problem by formulating effective legislation and policies. Lately, the number of Nepalese women going overseas for employment is steadily increasing; and it is suspected that a large number of them leave Nepal in conditions that have semblance of trafficking. In order to prevent migrants from being trafficked it is necessary to study, monitor and analyze the details and take appropriate measures to address the problems.

#### **Violence against women alleged to be a *Boksi* (Witch):**

Lately, there has been an alarming rise in the number of women brutally beaten and/or treated inhumanly on alleged charges of practicing witchcraft. Such incidents are occurring in various parts of the country and a number of complaints have been lodged at the Commission. The absence of legislation against superstition and other effective enforcement measures as well as the interest of the authorities have not helped curb the situation.

#### **Domestic Violence and Dowry Related Violence:**

Domestic violence against women is a major problem in Nepal but very few get reported. The common types of the domestic violence are physical violence, psychological or emotional violence, sexual abuse and economic abuse of women by their husbands or in-laws. The absence of legislation on domestic violence, and orthodox social norms coupled with economic dependency of women on the family have not helped change the situation.

Dowry related violence is another major problem in Nepal. Such violence is most common in the eastern Terai region of Nepal but are spread all over the country in their subtle forms. While the Social Practice (Reform) Act sets a ceiling on dowry and wedding related expenses, the law is blatantly violated by everyone, and even by the senior most lawmakers. The Act needs to be amended to make it pragmatic and effective, and firmly enforced to curb dowry related violence.

#### **Sexual harassment at work and public places:**

Sexual harassment is another form of violence

against women. In a study on sexual harassment in the workplace, 13.04% of policy makers/civil society, 14.28% of the employers and 40% trade union respondents reported that the sexual harassment is commonly practiced in the executive level whereas 52.17% in the policy makers/civil society, 42.85% of the employers and 60% in the trade union said that it happens in the secretariat/clerical level. Existing laws are not sufficient to address the cases of sexual harassment. The Muluki Ain (Country Code) deals with some specific sexual offences like rape, incest and intention to sexual intercourse. Similarly, the Public Offences and Punishment Act deals with the issue of verbal harassment, but it prescribes minimal punishment for the perpetrators. However, in most cases women are reluctant to report the sexual harassment due to the fear of being further humiliated, or because their complaints would not be taken seriously. Therefore, there is a need to educate the mass about the sexual harassment and amendment of existing laws to adequately address the issues and to properly include the provisions of international human rights instruments to protect women against violence.

#### **D. Child rights with focus on education, exploitative labour and violence.**

##### **Education:**

Though primary education is declared free, the goal of universal and compulsory free primary education for all has not been achieved. Nearly 34% of children of Nepal are still deprived of education. Only 15 percent of the *Chepangs* and 25 percent of the Dalits are literate. Likewise, the literacy rate for boys is 61 percent, whereas it is only 39 percent for girls. Nearly 63 percent of the students either drop out or repeat the 1<sup>st</sup> grade. Gender disparities in access and performance are significant. Also, only about 37 percent of the primary school age children are expected to complete their primary education within a period of 5 to 13 years. In addition to the access to

education, quality of education in most schools, including quite a few private schools, is a serious concern. Only 10 percent of the children entering Grade 1 will complete Grade 5 without repeating and the school drop out rate is very high at primary level. Among the children, the children of ex-bonded labour are the most deprived of their right to education.

The problems have been compounded by the violent conflict between the State and the Maoists. Thousands of schools in the rural areas are either closed or run by very few teachers. A number of schools have been destroyed, several teachers have been displaced from the schools and quite a few have become victims of brutal violence, including murder. The private schools and charity schools have also been affected by the conflict. Lately, frequent forced closures of the schools, and closures resulting from strikes and Bandhs have become another factor affecting the education of children.

##### **Exploitative Child Labour:**

Child labour in Nepal has a long tradition that reinforces the inherent inequality in Nepalese society. The worst forms of exploitative type of work conditions involving children are domestic worker, bonded labour, trafficking, armed conflict, prostitution, drug peddling, scavenging, rag picking, porter, domestic service, small bar and restaurant, overland transportation, auto repair workshops, carpet industries, bricks and tile kilns, match factory, leather tannery, mines and quarries.

Employment of children as domestic helpers is widespread among the middle and upper class families. The statistics on the condition of domestic child workers in Nepal are quite alarming. The average age of a domestic child labourer is 13; 10 percent of the workers are under the age of 10 and 70 percent fall between the age group of 11 to 14 years. While 49 percent of the

child domestic workers have never gone to schools, 40 percent have had to drop their school education; and only 11 percent are attending the school; even among these children, most hardly get time to study at the employer's home. Sixty-four percent of them work 10 to 14 hours a day and 20 percent work 14 hours a day. Paid leave, rest and recreation are rare. Fifty-one percent of the child domestic workers have poor health and 7 percent have serious injuries. Twelve percent of the children are working as bonded labourers; 32 percent have not been paid wages; and 10 percent have no idea about their wage. More than half (59%) of the workers have suffered from various forms of abuses by the employers and 14 percent are sexually abused. Only 16 percent of employers treat them well.

It is estimated that some of the 36,000 children aged 5-14 years are possibly facing "at-risk" working conditions in the manufacturing and construction industries. Furthermore, estimated 127,000 children are engaged in the worst forms of child labour.

### **Violence against children:**

Physically and verbal punishment of children is common in Nepal. The notion that a little bit of beating is necessary for disciplining children is widely accepted and thus practiced. The incidents of physical abuse of children by their employers appear almost regularly in the newspapers and verbal abuse is pervasive. Likewise, many schools allow corporal punishment and there have been incidents of serious incidents of abuse even leading to serious injuries and death. Also, abandonment of children and violence on children, at times resulting to death, are increasing. Other heinous forms of violence against children are sexual abuse and involving children in prostitution. In the year 2002, 91 cases of child sex abuse were recorded. Of the estimated 440 commercial sex workers in Kathmandu, 30 percent were children. In the

same year, 137 cases of trafficking were recorded; among them 49 were children. It is reported that about 20% (30,000) of the total number of trafficked women are young girls under the age of 16 years.

Various reports have suggested that a sizeable portion of Maoists militia is underage — 30% of Maoist militia are reportedly children below 18 years of age. Many children have been abducted from the school for the purpose of involving them in violent activities. The children are trained and used not only as soldiers but also as spies and porters.

In addition, the laws of Nepal apparently create a state of confusion in relation to the definition of a child in terms of age. The Children's Act of Nepal, The Labour Act, The Election Law, The Chapter on Marriage of the Muluki Ain and several other Chapters of Muluki Ain are inconsistent with each other regarding the definition of child.

**E. Access to adequate food, access to health care services, including preconditions for health, access to secure shelter and equal opportunity to participate in economic activities to support the fundamental basic needs are the most pressing issues faced by a large number of population. In the absence of any of these elements, neither the civil and political rights of the people can be fulfilled meaningfully nor can the hope for creation of a peaceful and just society be realised.**

### **Food:**

Forty-five districts (60%) of Nepal, a country that once used to export food, are categorized as food-scarce areas. The problem of food scarcity is acute in the hills and mountains, especially in the far western and mid-western regions. Production as

well as supply of food in these areas has been seriously affected due to the disturbing political situation. Almost 51% of the population feel that their food consumption is less than adequate due to insufficient food or income; and 63% of the people from the mountain region suffer from lack of access to fertile land, seeds, irrigation, etc. — only 3% report having adequate food. The ongoing conflict has affected production and distribution of food in quite a few remote areas. Under-nourishment has thus been affecting the growth and well-being of the people, especially children. Skewed distribution of land, absentee land ownership, and infrastructure related deficiencies are three key factors contributing to food insecurity.

#### **Health:**

The average life expectancy (59 years) of Nepalese people remains quite low and Nepal is one of the few countries where women live shorter (58 years) than the men. The primary health care services are poor due to understaffing or lack of trained health personnel. Lack of medicine and basic equipment is an acute problem faced by health centres. Most of the rural hospitals do not have sufficient number of doctors and many rural women die at the time of giving birth due to lack of pre-natal health services and absence of trained birth attendants. The lack of trained medical personnel and birth attendants has contributed to a high infant mortality rate (66 per 1,000 live births) and maternal mortality ratio is 540 per 100,000. Likewise, diarrhoea remains to be a major killer disease.

Access to safe drinking water and safe sanitation facility is the most essential pre-condition to enjoy the right to good health. Statistics show that 88 percent of the households in Nepal have access to an improved source of water, but the quality of drinking water supplied is highly questionable.

An overwhelming majority, 72 percent of the rural households do not have access to improved sanitation. The fertility rate is quite high at 4.6%. Despite significant progress, immunisation for DPT and Measles still remains below 75 percent. Additionally, 20 percent of the children suffer from severe malnutrition, 48 percent suffer from moderate malnutrition, and child health problems related to Vitamin A and Iodine deficiencies remain a concern.

In recent years, HIV/AIDS cases have started increasing. There are nearly 60,000 Nepalese living with HIV/AIDS. Unavailability of HIV testing facilities in all the hospitals and health centres has exposed people to the grave risk of HIV transmission through blood transmission. Access to medication is very low due to the high medication costs. Moreover, people with HIV/AIDS face discrimination in hospitals, in the society and within their families as well.

#### **Shelter:**

Housing is one of the basic rights of people, but a very large number of Nepalese people are deprived of this right. The only national housing survey conducted in 1991 reported that about half of the total houses are of the temporary type, about forty percent are semi-permanent and the rest belong to permanent category. Absence of a culturally appropriate low-cost but safe housing policy for rural and urban areas has not enabled the people to exercise their right to adequate housing. Large numbers of people in urban areas live in rented rooms and houses without any regulatory mechanisms to protect their interests/well being as well as the interests of the owners. Due to the centralisation of various key opportunities in the urban areas, the number of people using rented facilities is increasing and will continue to increase in the future.

The problem of squatting is on the rise in urban

areas. The 1991 study reported 8.61% of population were squatting and that they fell under the poorest of all household tenure groups. The future of these squatters is uncertain for His Majesty's Government can remove them from the area at any time as there have been cases of eviction of settlers to give way to development projects.

Physical and financial problems have been a major obstacle to own a suitable dwelling for the underprivileged such as landless and agricultural labourers, including the recently freed *Kamaiyas* (bonded labourers), *Hali*, *Gothalo*, internally displaced people due to state-Maoists conflict, Dalits, delinquent destitute women, street children, people having certain professions, and the elderly. The problem of housing for poor people, particularly for the labourers and workers, is most acute in the urban areas.

#### **Work:**

According to the His Majesty's Government's Employment Promotion Commission, unemployment and underemployment rates in Nepal are 4.9% and 47% respectively. Since majority (80%) of economically active population are engaged in agriculture, which is mostly a seasonal activity, a large number of people remain underemployed. Underemployment is a major problem contributing to rural-urban migration and lately migration to foreign countries. The number of educated but unemployed people is on the rise partly due to lack of opportunities and partly due to inadequate skills and expertise to enter in the job market.

A forced labour system, involving the entire family of the worker, has existed in Nepal for hundreds of years in an institutionalised manner. Slavery was officially abolished in 1925, but the system

of *Kamaiya* (bonded labour), which has many features of slavery, continued to flourish, especially in the far western districts of Nepal. Whilst His Majesty's Government abolished the *Kamaiya* system once again in July 2000 freeing at least 100,000 people from near-slavery condition of work, in the absence of proper policies as well as the problems in implementation of the existing policies, most ex-*Kamaiyas* are facing problem of finding work forcing many to return to their past masters. Following the declaration, landlords expelled the former *Kamaiya* from their land. The displaced *Kamaiya* have been forced to live in emergency makeshift camps where conditions are poor and have not been provided with alternative source of employment. Approximately 13,700 families (60-70,000 people) currently have no land to farm or live on. Moreover, *Haliya*, *Gothalo* system, etc. are still prevailing in various parts of the country.

The legal provisions governing minimum wage or other facilities for improving working conditions of workers have not been enforced properly. Workers, especially in the unorganised sector, cannot complain about their working conditions or demand wages as fixed by His Majesty's Government for fear of losing their jobs. And, there is widespread wage discrimination between men and women for the same work. Moreover, those engaged in caste-based occupations, such as sweepers, leather and metal workers, village tailors, etc. seldom earn enough for their family's survival.

Lately, the trend of seeking jobs overseas has been increasing. Thousands of men and women are becoming migrant workers. In the absence of a proper mechanism to regulate the conditions of employment, many workers have landed in slavery like work conditions or are swindled either by the employers or the employment agencies. This affects the women who work in the Gulf region more acutely.

**F. Laws are inconsistent with the human rights norms and treaty reporting procedure is weak.**

A number of laws are still inconsistent with the norms and values set by the Constitution, international treaties and conventions. The State Case Act, Torture Compensation Act and the recent amendment of the Muluki Ain are only a few examples. Such inconsistencies in the law have been affecting the rights of the people to get justice.

**G. Human rights awareness and education.**

The Vienna Declaration and Programme of Action (1993), which was agreed at the World Conference on Human Rights, calls on States to eradicate illiteracy and direct education towards the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms. It called on all States and institutions to include human rights, humanitarian law, democracy and rule of law as subjects in the curricula of all learning institutions in formal and non-formal settings.

There is a serious lack of awareness and education on human rights at all levels. Human rights are not taught in the schools; consequently most people are not aware about their rights, the rights of other people, and the means of protecting them. Many people, including the highly educated, take the notion of human rights as a foreign concept and not applicable to Nepal. The authorities generally demonstrate their apathy towards the issue. Human rights are included in police and military training, but the effectiveness needs to be enhanced to bring about significant and more visible attitudinal and behavioural changes among the police and army cadres. Most importantly, training of civil servants on human rights is not adequate, especially for

those who occupy positions involving quasi-judicial functions. Likewise, political party leaders and cadres are not aware of relationship between good governance and human rights.

The Nepalese society is increasingly becoming intolerant. People who believe in violence as an effective means of resolving differences have created a lasting scar on the nation as a whole. Emergence of such groups has been to a great extent a result of decades old cultural and structural violence ingrained in the society. Unless and until the root issues are addressed through human rights education and awareness with special focus on the issues affecting the marginalized and weaker groups of people, there is a risk of renewed or new form of conflict.

**H. Impunity.**

State authorities and non-state parties are often involved in acts that violate law. The situation has aggravated due to the conflict between the state and the Maoists. Excessive use of force, arbitrary arrests, illegal detention, torture, disappearance of citizens and journalists by the state have become common. Likewise, the Maoists are equally or more involved in abduction, extortion, torture, killing and use of human shields. The tendency of ignoring the recommendations/instructions of National Human Rights Commission by the state authorities to investigate and take necessary legal action against the alleged perpetrators is common. Some authorities ignore even the orders of the Supreme Court.

It is also found that the perpetrators are often transferred or even awarded instead of making them accountable for their wrongdoings. The mindset that one can get away with deliberate ignorance of court orders and thereby violate human rights is strong and common among the

authorities. Moreover, the practice of the state bearing the burden of compensation to the victims of human rights violation without making the individuals responsible for such act calls for separating individual liability against state/ institutional liability to discourage both the individual and the state from violating human rights. *Thus, impunity has been a serious obstacle in ensuring rule of law and protection of human rights of the people in accordance with the Constitution of Nepal, along with various laws and international human rights treaties to which Nepal is a party.*

It is not satisfactory that the army and the police use internal disciplinary procedures to deal with serious human rights violations caused by their

personnel. The government's practice of shouldering the responsibility of compensating the victims of human rights violation for the crime committed by its employee is also not helpful to change the situation, not to mention that it is a gross misuse of tax payer's money. The prosecution system is weak and often ineffective to prevent reoccurrence of similar crimes. Moreover, there is no provision to bring to justice the Maoists who have committed heinous crimes like rape, murder, abduction, extortion etc. As a result, the faith of the people in the rule of law has declined.



## STRATEGIC OBJECTIVES

Promotion and protection are two key statutory tasks of National Human Rights Commission. The most important statutory task of the Commission concerning the protection of human rights is to conduct inquiries or investigations on complaints received from the victims or any person on his/her behalf, or upon information received from any source, and ensure that the victim(s) get(s) the justice. In this regard, the Commission will always receive and act upon individual complaints or take initiative on reports of human rights violation to protect human rights in Nepal as its priority statutory function. In case of the latter type of violations requiring *suo moto* action of the Commission, the priority will be given to the cases that fall under the areas covered by the strategic objectives.

For the next five years starting from January 2004, the Commission will strive to achieve the following 8 strategic goals, grouped in programme and management categories, while executing the above stated statutory duty.

### A. Programme Objectives:

The Commission has set the following seven programme objectives on the basis of the stakeholders' recommendations and its own experience on priority human rights issues in Nepal and its statutory responsibilities, as stipulated in the Human Rights Commission Act.

### STRATEGIC OBJECTIVE 1

**To contribute to the peace building process by ensuring that the parties to the conflict are fully in compliance with the international standards for human rights and humanitarian law.**

#### *Key priorities will be:*

- Monitoring, backed by improved outreach, and ensuring that the parties in conflict respect human rights.
- Studying, investigating and documenting disappearances, human rights violations, internal displacement and following up.
- Drawing attention to discuss and agree to resolve

### Expected Results of SO

1. His Majesty's Government and the Communist Party of Nepal (Maoist) agreed to respect human rights with an appropriate mechanism.
2. Respect for human rights and humanitarian principles established.
3. Adherence to the human rights principles by the His Majesty's Government and the Maoists in the process of finding peaceful and lasting solution to the conflict.
4. Conflict victims received justice.
5. HMG plans and implements resettlement of the displaced people.

the socio-economic issues that have been inflicting structural violence in the society.

- Ensuring that justice is given to the victims of conflict by making the perpetrators accountable for their actions.
- Enforcing the Common Article 3 of the Geneva Convention and causing/facilitating domestication of international humanitarian law.
- Actively engaging key stakeholders in dialogue and discussion to find a solution to the problem.
- Monitoring of post-conflict situation.

## STRATEGIC OBJECTIVE 2

**To promote, monitor and enforce the guarantee of fundamental rights of the people with focus on the right to life, liberty, justice and equality.**

*Key priorities will be:*

- Causing changes in the existing legislation and in the practices to bring them in line with the fundamental rights to life, liberty and equality guaranteed by the Constitution and prevailing laws as well as by the international standards on human rights, irrespective of ratification or non-ratification. This will include protection of citizens' lives from torture, illegal arrests and detention, negligent practices and malpractices; ensuring administrative and punitive measures to address caste-based-discrimination; gender and sexual orientation based discrimination, discrimination faced by indigenous people, and discriminatory practice in wage system.
- Causing changes in the building codes governing

construction of offices (public and private), buildings, hotels, hospital road, footpath, etc. to increase the accessibility of people with physical disability.

- Influencing His Majesty's Government policies to promote and protect access to opportunities for marginalized groups and promote ethnic languages.
- Working with judiciary and professional bodies to improve the opportunity to receive fair trial.
- Pursuing significant improvements in the penal system.
- Bringing the profit and non-profit sectors under the purview of human rights standards.
- Protecting equality rights of vulnerable groups such as elderly people, people with disability, Dalits, and minority indigenous people - Chepang, Praja and Raute, etc. -, and protecting the culture and identity of indigenous communities.
- Initiating a study on the effect of abuse of authority and its effect on human rights.

### Expected Results of SO

- |    |   |
|----|---|
| 1. | Legislation fully protects the right to life of the citizens from the state and non-state parties.                    |
| 2. | Full protection of fundamental rights.  |
| 3. | Circumstances for receiving fair trial improved.  |
| 4. | Significant improvements in the penal system and detention centres.   |
| 5. | Legislation and codes protect people from discrimination and significant improvements in the enforcement of the laws. |
| 6. | Opportunities for marginalized groups to participate in politics and civil service enhanced.                          |
| 7. | Increase in the level of adherence to the fundamental rights by the Non-state parties.                                |

- Monitoring of the respect for the fundamental rights and taking prompt action in cases of violation of the fundamental rights.

### STRATEGIC OBJECTIVE 3

**To advocate right to food, health, shelter, education and work as the fundamental rights of the people with special attention to improving the human rights situation in the most underdeveloped regions of Nepal.**

*Key priorities will be:*

- Pursuing His Majesty's Government to define appropriate national standard/s for right to food, health, shelter, education and work.
- Pressing for constitutional and/or legislative changes to ensure that the citizens are able to fully exercise those rights.
- Pursuing His Majesty's Government to effectively implement its plan of action to address the food security problem in chronic food deficit areas.
- Conducting national level research on the impact of globalisation on household food security, on bonded labour, on the rights of farmers, workers (including health, education and status of women and children workers) and Nepali migrant workers from a human rights perspective.
- Raising awareness on economic, social and cultural rights and building the capacity of human rights NGOs and civil society to defend these rights.
- Monitoring the condition of ex-Kamaiyas, Haliya, Gothala and similar practices; and pursuing His Majesty's Government to take actions to address their rights.

- Monitoring and enforcing minimum wage and equal wage requirements.

- Ensuring that His Majesty's Government enacts effective laws to guarantee rights of the workers engaged in informal economy and properly regulates and monitors the contractual arrangements and conditions of Nepalese migrant workers.

- Pursuing adoption of/changes in policies and the legislation for culturally appropriate and affordable housing for rural and urban poor, and protection of tenancy rights.

- Working with the stakeholders to declare the children, hospital and medical facilities and sites of cultural heritage as Peace Zones.

- Monitoring the progress of His Majesty's Government on its implementation of the universal and free quality primary education policy and free quality basic health care services.

- Monitoring of implementation of ESCR components of the National Human Rights Action Plan of the His Majesty's Government.

#### Expected Results of SO

1. Legislative and policy changes respecting the right to food, health, shelter, education and work.
2. Effective implementation of a plan of action to address food security in food scarce regions.
3. Concrete measures to address the employment problem of ex-bonded labourers.
4. Principle of minimum and equal wage is enforced in all 75 districts.
5. Housing policy for the poor.
6. Protection of migrant Nepali workers from fraud, unjust and exploitative labour conditions.
7. Universal and compulsory free quality primary education and protection of right to education of every child.

#### STRATEGIC OBJECTIVE 4

To help improve the legislative and regulatory mechanisms for control and cessation of: a) domestic and dowry related violence against women and b) trafficking in women and children.

*Key priorities will be:*

- Advocate revision of the definition of trafficking under the existing laws and improvisation of South Asian Association for Regional Cooperation treaty on trafficking.
- Causing changes in the Muluki Ain (National Code), Human Trafficking (Control) Act, Labour Act and immigration laws to bring them in line with the provisions of international treaties.
- Causing formulation of effective policies for relief, rehabilitation, repatriation and integration.
- Monitoring the action taken against the incidents of trafficking and produce annual report for submission to the His Majesty's Government and United Nations. It includes monitoring of work-related-migration of Nepalese citizens to foreign countries and ensuring that His Majesty's Government puts adequate mechanisms to regulate and monitor the situation.
- Commissioning researches to identify the magnitude of trafficking of women (in conjunction with the research on trafficking of girls), and prevalence of sexual harassment at work and in public places.
- Building collaboration with the national regional and international to curb cross-border human trafficking.

- Networking with different stakeholders.
- Pursuing His Majesty's Government to enact/amend/enforce legislations to prevent and control domestic violation, to curb the practice of dowry/dowry related affairs and to prevent the violent and inhuman treatment of women under the charge of witchcraft.

#### Expected Results of SO

1. Common definition and understanding on human trafficking is in place.
2. Legislation to curb domestic violence and superstition are in place and the legislation on control of human trafficking is fully in line with UN Protocol on Trafficking.
3. Significant improvements in His Majesty's Government's regulatory and monitoring arrangements to control trafficking, domestic violence, dowry related violence and sexual harassments.
4. Developed and implemented joint programmes with NHRIs to curb cross-border human trafficking.

- Building database on violation of women's rights in the areas of sexual harassment, domestic and dowry related violence and trafficking.
- Monitoring the implementation of the component of the Human Rights Action Plan concerning women's rights.

#### STRATEGIC OBJECTIVE 5

To help improve legislative, monitoring and enforcing arrangements for the elimination of violence against children in the form of trafficking, abuse, exploitation and the use of children in conflict.

*Key priorities will be*

- Causing development and implementation of a code of conduct relating to child labour applicable

to His Majesty's Government employees and members of parliament, constitutional bodies and various commissions who receive state funding.

- Influencing His Majesty's Government to improve its regulatory and monitoring mechanism to protect the children from exploitative

Expected Results of SO	
1.	Code of conduct on child labour for the persons and organisations who receive state funds is developed and implemented by the His Majesty's Government.
2.	Legislation affecting children are consistent on the definition of child and fully in line with CRC and other relevant international treaties and conventions.
3.	Significant improvements in regulatory and monitoring arrangements to curb the violence against children at work place, schools and home.
4.	Mechanism to discourage the use of children in worst form of labour work in place.
5.	Prevented the use of children in conflict.

form of child labour, especially domestic, restaurants, factories and quarries; and monitoring the work of His Majesty's Government in the areas of juvenile justice system.

- Independent monitoring of trafficking of children and the effectiveness of monitoring mechanisms of the state.
- Conducting a research to identify the magnitude of child trafficking (in conjunction with the research on trafficking of women).
- Initiating enactment of new legislation, or amendment to existing legislation to protect children from abuse, including corporal punishment in schools.
- Investigating the use of children in conflict and put pressure on the parties responsible for correcting their act.

## STRATEGIC OBJECTIVE 6

**To improve the extent to which international treaties and conventions on human rights are ratified, domesticated and implemented in Nepal.**

*Key priorities will be:*

- Pursuing/facilitating His Majesty's Government to ratify all outstanding international treaties, conventions and optional protocols relating to human rights and to submit quality reports to the treaty bodies in time with the comments of NHRC.
- Reviewing the existing legislation by assigning priority to those that are related to the Strategic Plan 2004-2008 and the draft bills that are being submitted to enact legislation to ensure that they comply with the constitutional guarantees and the international standards on human rights.
- Ensuring that torture is dealt with as a serious crime with harsh punitive measures in Torture Compensation Act.
- Improving the application of international human rights norms in the court while litigating legal cases with an aim to address the factors that have been impeding the right to fair trial.

Expected Results of SO	
1.	All major treaties, protocols and major optional protocols including the statute on the establishment of International Criminal Court ratified.
2.	Significant improvements in treaty reporting by His Majesty's Government.
3.	Amendments of existing legislation or introduction of new legislation completed to domesticate newly ratified treaties and to remove the inconsistencies.

## STRATEGIC OBJECTIVE 7

**To promote, develop and provide education, information and advice about human rights.**

*Key priorities will be:*

- Pursuing inclusion of human rights education in school curriculum and in non-formal education packages.
- Ensuring that human rights education is a core subject in the staff-training programme of the Ministry of General Administration, or of the appropriate ministry in-charge of staff training.
- Ensuring that His Majesty's Government officers with quasi-judicial responsibilities are properly prepared by the respective departments to execute their quasi-judicial duties within the frame of the Constitution and in accordance with the international human rights standards.

### Expected Results of SO

1. Human rights curriculum part of core curriculum of schools and training programme of His Majesty's Government employees.
2. Increased knowledge and awareness about human rights have brought positive attitudinal changes among the authorities and the people.

- Educating and raising awareness of key policy makers, Regional Administrators and Chief District Officers.
- Disseminating human rights information to the public officials and professional groups.
- Ensuring that the concerned authorities properly train security and army personnel before deploying them to active duty, and follow-trainings are provided to them to

reinforce the knowledge and behavioural changes.

- Promoting application of international standards of human rights in legal case building, litigating, and imparting justice.
- Carrying out highly selective high impact promotional work in support of the above interventions and Strategy Number 1 to 6 and on emerging human rights issues.

### **B. Management Objective:**

In order to achieve the above programme objectives and also in response to the feedbacks from the Stakeholders, the National Human Rights Commission will be pursuing the following management objective.

## STRATEGIC OBJECTIVE 8

**To transform the image of the organisation by increasing its efficiencies (managerial and technical) and acceptance across all sections of Nepalese society.**

*Key priorities will be:*

- Team building and formulating code of conduct governing the discipline of the Members with strict punitive measures to deal with any violation of the agreed code.
- Amending the Human Rights Commission Act, 1997 (B.S. 2053) to ensure that the provisions of the Act are in line with the requirements of the Paris Principles and to bring changes in the existing provisions to execute given mandates effectively, especially in the area of investigation and action.
- Rigorously implementing the core values —

equality, impartiality, accessibility, accountability, transparency, and independence and autonomy - and demonstrating the commitment to promote and protect the human rights of everyone by following the principle of impartiality.

- Improving the complaint handling procedures to make them efficient in terms of time taken to enquire and to decide on the case.
- Learning from well established NHRIs and international human rights organisations through work attachment and highly structured training programmes to develop specialist knowledge.
- Developing responsive and efficient management practices and culture within NHRC.
- Improving its public relation by developing media strategy.

- Improving terms of employment to attract competent and motivated human rights professionals and to retain good staff, and introducing performance based appraisal system.
- Investing in human resource development to implement the strategic objectives and to develop specialists in specific areas of human rights.
- Streamlining administrative rules and procedures governing the expenditures under the state funding and other funding.
- Systematizing the office operations, introducing procedures for various operational work, and increasing the level of office automation.

#### Expected Results of SO

1. NHRC's public image has improved further.
2. NHRC has become efficient, accountable, transparent and professional national level human rights institution.



## MEANS OF ACHIEVING THE STRATEGIC OBJECTIVES

The NHRC intends to achieve its strategic objectives by:

**A. Making the most out of the Human Rights Commission Act, 1997 (B.S. 2053).**

The NHRC will implement and enforce all the provisions of Human Rights Commission Act, 1997 (B.S. 2053) to the optimum level to bring about positive changes in the attitude and behaviour of human rights violators.

**B. Reorganizing and enhancing organizational capacity:**

- The Office of the National Rapporteur on Trafficking in Women and Children will be entrusted with the programme responsibilities related to the issues of women and children being addressed by this strategic plan. The Office will be strengthened and integrated to NHRC's structure for optimum and effective use of human resources. Existing staff positions and the need for new positions will be reviewed by January 2004 with the assistance of United Nations Development Programme led capacity development project of the NHRC.
- The role and the authority of the Secretary of the NHRC will be clearly spelled out taking the

needs of the NHRC and the experiences of other NHRIs by February 2004.

- Introduction and enforcement of a code of conduct for the Members and the staff by February 2004.
- Additional staff already identified during the restructuring exercise in the past, but so far not recruited due to budget constraint, and new posts will be recruited by March 2004.
- A plan of action for decentralization of decision-making process for efficient execution of daily work, especially complaint handling, will be prepared and implemented. The complaint handling procedure, which is in early phase of development, will consider the experience of this arrangement and further refine the procedures by February 2004.
- Recruitment of senior level professionals to support the NHRC in improving management, administration and implementation of the strategic plan by February 2004.
- Mobilizing external resources in conjunction with program activities to make the salary and benefit packages of the staff are appropriate to retain and draw highly motivated and able people to meet the challenges.

- Finalizing the draft human resource development policy and developing staff training and development plan by October 2003 to effectively implement the strategic plan.
- Recruitment of experts and trainers to help the NHRC in its interventions.
- Interim arrangements, pending revision in Human Rights Commission Act, 2053, to increase participation and representation of women, Dalits, indigenous people and Janajatis at the policy level work of the NHRC will be put in place by February 2004.
- Achieving participation of women, Dalits and ethnic groups fifty percent of the rank and file of the NHRC by the end of the plan period.
- Amendment of Human Rights Commission Act, 1997 by year 2004 with the necessary support of all key stakeholders.
- Development and implementation of staff rules and regulations for recruitment of staff on fixed term contract basis and for various others technical and non-technical services by December 2004.
- Development and implementation of periodic performance evaluation system for all Members and the staff by January 2004.
- Expedite the work on the decentralized complaint handling procedure and automated complaint handling system with an aim to complete it by June 2004.
- Creation of a professional media desk to handle all press releases and to promote the NHRC and its work through effective collaboration with media by February 2004.

- Create fund to meet the obligations to the Members and the staff by January 2004.
- Begin process (from January 2004) to acquire land for NHRC office.

### **C. Building allies, partners and constituency:**

- Developing allies in the key ministries and formulating an effective lobbying strategy at the parliament to advance the cause of human rights.
- Preparing and implementing joint plan of action with the National Women's Commission, National Dalit Commission, the Foundation for Indigenous Nationalities and other umbrella organisation working for the rights of the ethnic people on human rights issues being addressed by the strategic plan.
- Working closely with the political parties to make promotion and protection of human rights as their key agenda.
- Working closely with the Human Rights Committee of the House of Representatives on the matters concerning human rights.
- Working with the human rights cells of police, armed police, army and the Home Ministry as well as other focal points.
- Developing professional relationship with the media and cultivating their support for the cause of human rights and supporting the media, in national level as well as in the regions and districts, by sensitizing editors and journalists in reporting news from human rights angle.
- Working closely with the human rights non-governmental organisations and professional bodies like, courts, Nepal Bar Association, Society

of Judges and Group of His Majesty's Government Attorneys in implementation of key interventions and soliciting their views and opinions on human rights issues.

- Further strengthening professional relationship with UN agencies, especially United Nations Office of High Commissioner for Human Rights, United Nations Children Fund, International Labour Organisation, World Health Organisation, United Nations Educational Scientific and Cultural Organisation and United Nations Development Programme, bilateral agencies, diplomatic missions and international human rights organizations.

#### D. Expanding accessibility to NHRC:

- Establishment of the first two regional offices in mid-western region and in eastern region by the end of 2004, and the third and fourth in two other regions by the end of 2006.
- Collaboration and networking with human rights non-governmental organisations, civil society and human rights activists, etc. to expand outreach and accessibility to the districts and villages.
- Creating and fielding mobile teams for complaint

receiving and investigating.

#### E. Mobilizing resources:

- Actively lobby for sufficient financing from the state based on a detailed budget.
- Tapping resources, if and where possible, of National Women's Commission, National Dalit Commission and National Foundation for Development of Indigenous Nationalities (Janajati Uttahan Pratisthan) for the activities related to women, Dalits and Janajatis respectively. As an interim arrangement, co-funding arrangements will be promoted to address budget shortcoming.
- Mobilizing external resources, which are unconditional and can be used for implementation of the strategic plan.
- Solicit advice and expertise of international human rights organizations with experience in fund raising, conducting market study and preparing a strategy for domestic fund raising.
- Explore possibility of obtaining expert volunteers from agencies like United Nations Volunteers and others.

#### F. Budget:

A tentative estimated budget for the five year period is as follows:

Particulars	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Total Cost in NRs.	49,243,000	64,830,000	49,205,000	42,053,000	38,680,000	244,011,000
HMG Contribution in NRs*	6,300,000	6,300,000	6,300,000	6,300,000	6,300,000	31,500,000
Available/Likely to be Available from External Sources in NRs	42,943,000*	58,530,000♦	42,905,000	35,753,000	32,380,000	212,511,000 □

NOTES: • HMG contribution is expected to increase to meet the entire cost of the Strategic Plan.

\* NRs. 13,431,680.00 available for year 1.

♦ NRs. 38,512,425.00 available for year 2.

□ Total: 68,024,109.00 available.

## RISK MANAGEMENT

**A. Issues concerning coordination and teamwork among the Members may continue to affect its public image and standing in adverse manner affecting the effectiveness of the organisation.**

- Conflict resolution and team building exercises will be systematically carried out to address dissatisfactions or inter-personal problems.
- A detailed and specific code of conduct will be developed for the Members. It will include the code of practice, stated in Accountability (Part 5), for communication with external parties. The code of conduct will have effective punitive measures against persons violating the provisions of the code. The Commission will seek help of expertise to develop such codes. The code will be given proper media coverage and put on the web for the information of the stakeholders. This will be done by November 2003.
- The Commission will not be lenient on its Members or staff on any improper action that jeopardizes organization's integrity, credibility and reputation.

**B. External stakeholders and staff of the Commission are of the opinion that all the Members need to be committed to promotion and protection of human rights and most importantly be result oriented. Besides,**

**skewed distribution of workload among the Members and a weak monitoring of their execution can reduce the ability of the Commission to achieve the strategic objectives.**

- Each Member will be assigned to a specific area of responsibility based on the strategic objectives and mandatory function of effectively receiving and handling complaints. All the Members will prepare their respective work plans. The work plans will be shared, discussed, and agreed among the Members. The work plan will be backed by a performance appraisal system, similar to the one planned to be developed for the staff.
- The performance appraisal system will be put in place by January 2004. In addition, the Members will frequently review the level of progress in the implementation of the strategic plan and make everyone accountable to their individual responsibilities. The significant accomplishments of the Members will be appropriately posted on the website with an aim to enhance the public image of the organization. For effective implementation of this arrangement, the Chairman will be assisted by an expert.

**C. Further deterioration of conflict and political situation in the country will aggravate already deteriorated human rights situation**

**in the country and make the Commission's work very difficult.**

- Peace with human rights being the priority area, the Commission will make use of all possible means to contribute to the sustainable resolution of the conflict from human rights perspective under its first strategic objective noting that the situation is not under control of the Commission.
- A contingency plan will be prepared to effectively respond to worst possible scenario.
- Since the task related to conflict and human rights requires high degree of concentration and very intense effort a team of two Members will be formed and assigned fulltime to this strategic objective until a lasting resolution of the violent conflict is found.

**D. Inadequate funding from and an indifferent attitude of His Majesty's Government on human rights will continue to remain as the major hurdles in effective complaint handling and implementation of strategic plan. As a result, on the one hand the state will feel "absolved of" the responsibility to adequately fund the Commission and on the other hand the Commission may not be able to implement its strategic plan in a timely and independent manner.**

- The Chairman and the Members will actively advocate and lobby for state adherence to the Paris Principles governing guaranteed adequate funding of national human rights institutions. In addition, they will make use of the opportunity, if any, to make the Commission a constitutional body warranting compulsory funding from the core fund of His Majesty's Government.

- The Commission will build allies within His Majesty's Government to advocate the cause of human rights in Nepal, and mobilize the support of national and international community in this regard.

- Periodic workshops and meetings with the key HMG ministries to make them aware of the Commission's role and responsibilities will be organised.

- Solicitation of external funding from donors, who attach human rights as priority agenda, as an interim measure will continue.

- Prepare in-country additional fund raising strategy with the help of experts from international human rights organizations that are experienced in fund raising from the public.

- Create an endowment trust fund to achieve long-term financial sustainability.

**E. Slow changes in the legislation due to apathy or lack of commitment to ratify the treaties and to domesticate the treaties.**

- The Commission will lobby and make state authorities aware of their human rights treaties or non-treaty obligations to the people and international community and mobilise necessary support from the civil society, professional bodies, and international community, as necessary.

- The experience of the Chairman and the Members will be used to expedite this task.

- The Commission will work with the HRNGOs and civil society on their role and responsibilities in this area.

## TIME FRAME

**Duration: Five Years starting from January 2004**

The following is an indicative timeline for the commencement and completion of interventions under the Strategic Plan 2004-2008.

S.N.	Strategic Objectives	2004		2005		2006		2007		2008	
		1 <sup>st</sup> half	2 <sup>nd</sup> half	1 <sup>st</sup> half	2 <sup>nd</sup> half	1 <sup>st</sup> half	2 <sup>nd</sup> half	1 <sup>st</sup> half	2 <sup>nd</sup> half	1 <sup>st</sup> half	2 <sup>nd</sup> half
1.	To contribute to peace building process by ensuring that the parties to the conflict are fully in compliance with the international standards for human rights and humanitarian law.										
2.	To promote, monitor and enforce the guarantee of fundamental rights of the people with focus on the right to life, liberty, justice and equality.	Focus on Zop Conflict Related									
3.	To advocate right to food, health, shelter, education and work as the fundamental rights of the people with special attention to improving the human rights situation in the most underdeveloped regions of Nepal.	Focus on Zop Conflict Related									
4.	To help improve the legislative and regulatory mechanisms for control and cessation of a) domestic and dowry related violence against women and b) trafficking of women.	Focus on Zop Conflict Related									
5.	To help improve legislative, monitoring and enforcing arrangements for elimination of violence against children in the form of trafficking, abuse, exploitation and the use of children in conflict.	Focus on Zop Conflict Related									
6.	To improve the extent to which international treaties and conventions are ratified, domesticated and implemented in Nepal.										
7.	To promote, develop and provide education, information and advice about human rights.	Conflict Related									
8.	To transform the image of the organisation by increasing its efficiency and acceptance across all sections of Nepalese society.										