



**“Role of the National Human Rights Commission and
its Challenges in the Present Context”**

Interaction on the National Human Rights Commission

Hotel Annapurna, 8 December 2006

Keynote Speech by Lena Sundh

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Nepal**

Distinguished participants from Government, Parliament, political parties and civil society,

I am very pleased to have been asked to address this important and timely interaction on the role of one of the most important partners of the Office of the High Commissioner for Human Rights in Nepal, namely the National Human Rights Commission.

As you know, OHCHR was actively involved in advising and assisting the NHRC long before our human rights monitoring operation was established here last year. The establishment of our Office in Nepal could never substitute, of course, for a strong, independent and effective National Human Rights Commission. Indeed, since the establishment of our Office, OHCHR-Nepal continues to assist the Commission, particularly in the area of training. We also continue to engage with the Government, Parliament, civil society and the international community, advocating for the strengthening of the Commission, particularly at this critical time. I have, in fact, just now come from a meeting with the Prime Minister where I, along with the UN Resident Coordinator Matthew Kahane and key international donors emphasized the need to appoint independent and representative Commissioners without further delay in a transparent and consultative process in line with the Paris Principles that takes into account the views of civil society.

The peace process which has just begun to take root needs an independent, inclusive and effective National Human Rights Commission to monitor, investigate and report human right on abuses. Above all, the country needs a strong national human rights institution to provide moral leadership and expertise on human rights issues and to provide a voice for the impoverished, marginalized and exploited in society. I emphasize the moral leadership of the Commission on these issues in contrast to the political leadership that is provided in the institutions of government. The work of a national human rights commission requires persons who are

appointed on the basis of their expertise, their character and their representivity of society as a whole. This is true not only for commissioners but for the staff and management of the commission as well. This is a point to which I will return shortly.

The absence of an effective and independent NHRC following the appointments made by the Palace in May 2005 in a closed process that lacked any consultation or transparency, has left a significant gap in the human rights community here in Nepal. The role played by each member of that human rights community is different and complementary to that of the others and the NHRC plays a unique role in that group. I can say that the work and impact of OHCHR-Nepal over the last year would have been enhanced by an active and credible human rights commission. I am sure that some of our NGO partners could say the same about their own work. Unless an effective and independent NHRC is re-established soon, that gap will continue to be felt in the monitoring of the peace agreement, the preparation for free and fair elections to the constituent assembly, the outreach to long-marginalized groups which quickly need to be empowered, the pressure for accountability for past human rights abuses and the many other challenges now facing the human rights community in Nepal.

The substantial progress that was made recently towards ending the conflict and achieving a just and sustainable peace provides an excellent opportunity to put a new and rejuvenated NHRC on a firm footing. In that vein, OHCHR-Nepal has welcomed the proposal to establish the Commission as a constitutional body. OHCHR-Nepal also welcomes many of the new provisions in that chapter of the draft interim constitution that would enhance the expert membership of the Commission and the process for their selection. But there are also risks in the present situation that might result in a flawed or weakened Commission. They include:

- a selection process for the new commissioners that is not sufficiently transparent and consultative, which would undermine the credibility of the new Commission;
- new Commissioners selected on the basis of political affiliation, which would undermine the independence and non-partisanship of the Commission;
- too many Commissioners, such as the eleven member commission specified in the recently revised Human Rights Commission Act, which would undermine the cohesiveness of the Commission and its ability to achieve consensus;
- a weakening of the present draft interim constitution to bring it into conformity with the lower standards contained in the revised Human Rights Commission Act;
- a proliferation of human rights-related bodies or commissions with overlapping mandates or inadequate cooperation, which may lead to competition for limited resources and conflicting messages to the public;

To avoid a flawed and weakened Commission, it is also important that it is the Parliament and not the Government that oversees the Commission, and that the Commission is actively supported by the civil society in order to ensure its unifying and catalytic role within the national human rights community.

It will take a concerted, sustained and coordinated effort by many diverse actors to avoid these and other pitfalls for the new NHRC that the country expects and needs. To that end, there is certainly a contribution that each of us participating in this interaction can and should make. In particular,

- the Government must ensure that the process for the selection of the new Chairman and members of the Commission is transparent, consultative and takes into account input from civil society, in line with the Paris Principles and international practice. Additionally, the mandate of the Commission, its methods of work and the independence of its secretariat must be strengthened and brought up to the relevant international standards;
- representatives of political parties must respect the non-partisanship of the Commission;
- new Commissioners should not be selected on the basis of their political affiliation but rather on their expertise, commitment and representivity of Nepali society. In particular there must be proper representation of women, in line with UN Security Council Resolution 1325 which calls for the full participation by women in national institutions;
- Members of Parliament need to strengthen Parliament's engagement with the Commission so that it can fulfill its role as guardian of the Commission's independence. Recalling that NHRC's links to the people of Nepal is through the Parliament, the NHRC will depend greatly on that institution for the public dissemination of its report and for the pressure that it can bring on the executive branch of Government for the effective implementation of the Commission's recommendations.
- members and organizations of civil society must double their efforts aimed at engaging the Commission and advocating for its independence. I welcome the strong sense of ownership that civil society, particularly the human rights NGOs, have demonstrated over the years toward the Commission. It is precisely at this critical juncture when a new Commission is to be established that the engagement and advocacy of the NGOs will have a significant impact.

Lastly, on the part of OHCHR-Nepal, I will make three pledges:

- first, our continuing support to the Commission, in close cooperation with UNDP and other international partners;
- second, our continued and persistent advocacy aimed at establishing a strong, independent and effective Commission in line with the Paris Principles and international practice; and
- third, our continuing and expanding cooperation with the Commission with a view to strengthening its professionalism and enhancing the impact of its work.

In closing, I would like to express my sincere hope that the interaction here today will help mobilise the support needed from the broad range of the Commission's partners to ensure that a strong, independent and representative National Human Rights Commission is re-established in Nepal without further delay.

Thank you

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