



# Human Rights e-Newsletter

## National Human Rights Commission of Nepal

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### Five Years of CPA NHRC urges effective implementation of provisions enshrined in the CPA

**L**alitpur: The Comprehensive Peace Accord (CPA) has completed its fifth year. The Accord was signed between the Government of Nepal and the then CPN (Maoist) to end the decade long armed conflict in the country. Though the implementing of the provisions furnished in the Accord was challenging at the beginning, indications of the Accord, as observed lately, seems to be positive which has fostered optimism from human rights perspective. Ways are now paved for the early conclusion of peace process and the conducive environment for making human rights friendly constitution in particular via the instrumental 7 Point Consensus signed between three major political parties on November 1, 2011.

Though the financial relief as the compensation is disbursed to the conflict victims of human rights violations, the perpetrators of the violations of human rights of serious nature haven't been brought to justice due to the considerable delay in instituting the mechanisms (Truth and Reconciliation Commission and Commission on Enquiry of Enforced Disappearances). This has resulted in the deprivation of justice delivery to the victims languishing for a long time. Even though, the consensus is reached time and again between the chief political parties to compensate the property damaged during the conflict period, to return the confiscated property to the rightful owners and to rehabilitate the displaced persons, it hasn't been translated into action yet.

There has been a little progress in removing the landmines planted during the conflict period, however, it is deemed necessary that the attention of the stakeholders ought to be drawn to the fatal incidents perpetuated from time to time due to unexploded ordnance (UXO).

Similarly, the de-facto situation is such that the recommendations and decisions made by the Commission and the court have not been implemented. Contrarily, the continuity of political protection gripped by the persons involved in crimes has given shelter to the state of impunity.

In the context of the completion of five years of the CPA, therefore, the Commission has appealed to all the concerned parties to realize the past weaknesses and implement the provisions mentioned in the Accord in an absolute practical term.

### Govt. releases Rs 1.5 million package for Godar Victims

**J**anakpur: With the unwavering effort made through the NHRC recommendations, the government has eventually released Rs 1.5 million compensation package to be handed over to the family members of five victims of Godar incident. The compensation Rs 300 thousand each is handed over to the immediate kin of victims Sanjeev Karn, Durgesh Lav, Pramod Narayan Mandal, Shailendra Kumar Yadav and Jitendra Jha, it is learnt.

As per the information acquired by the NHRC, five local youths were said to have been detained at Biswakarman Chok by the then security forces deployed in the area on October 8, 2003. All five victims were blindfolded and shot dead later before they were buried at the bank of Kamala River situated at Godar VDC of Dhanusha district. The NHRC collected the human remains of the victims upon conducting the series of exhumation at the burial site in August, 2010. The specimen of exhumed remains of the victims is under the process of DNA analysis.

In this concern, the relief as the compensation was allocated by the government as per the NHRC decision forwarded on January 29, 2008 while on prosecution side, as of today, no legal action has been commissioned against the accused SSP Chuda Bahadur Shrestha, SP Kuber Singh Rana, Major Anup Adhikari and CDO Rewati Raman Kafle.

Non-implementation of NHRC recommendations, four years long correspondence, awfully tiring visits of the victim's family members and NHRC staff to various government actors including the Ministry of Finance, Ministry of Home Affairs, Ministry of Peace and Reconstruction have altogether indicated the obliviousness of government bureaucracy with



Letter received from Home Ministry with regard to the compensation package for Godar Victims

regard to the magnitude of the incidents and state of impunity. Indisputably, there appears a dismal state of affairs concerning the self motivated effort of the state towards the protection of human rights in the country. The family members and the relatives of the victims do not have access and ability to knock the door of Singha Drubar time and again for long awaited justice. Following this, the NHRC has appealed to the government to implement all types of recommendations without any dilly dallying and in an absolute practical term, the report says.

## Rights of Persons with Disabilities and Racial Discrimination monitored in Nuwakot



NHRC officer and the participants of NFPD and NDSWA during an interaction on Rights of Persons with Disabilities and Racial Discrimination held in Nuwakot

**N**uwakot: The NHRC conducted monitoring on the incidents of human rights violations in Nuwakot district that took place on various dates. The team took to the district of Nuwakot on November 7, 2011 to accomplish one of the series of activities on the protection of human rights set forth in the NHRC annual plan.

The team conducted monitoring on the human rights situation of persons with disabilities, rights against racial discrimination and detention center. Similarly, the team carried out investigation on 5 complaints registered with regard to the incidents of human rights violations.

During the monitoring, the team met with the stakeholder representatives of the government

offices, security agencies, National Federation of Persons with Disability, Nepal National Dalit Social Welfare Association, Nepalese Federation for Journalists, human rights organizations and agencies, including the victims concerned and collected the information from them.

The team carried out monitoring on the special classes operated for the children with disability under special education policy. Similarly, the team

carried out on-the-spot monitoring of the places including Bageswari, Devighat, Khani Gaon, Dhikure and Khadga Bhanjyang.

Meanwhile, the team held an interaction in coordination with the National Federation for Persons with Disability and National Dalit Social Welfare Association which was followed by comprehensive discussions on the human rights situation of the persons' rights against racial discrimination and persons with disability.

The participants of the programme comprised of the Chief District Officer, representatives of the concerned stakeholder government offices, chiefs of the security agencies, teachers, and woman human rights defenders including media.

## Monitoring conducted on the status of women's rights in Sindhupalchok

**S**indhupalchok: The status of women's rights is in a dismal state in Sindhupalchok district situated a few hundred kilometers east from city capital Kathmandu, as per the monitoring conducted by the NHRC in the district. Apart from Chautara, the district headquarter, the team visited Ghumathang, Ramche, Melamchi, Helembu, Kunchok and Eechook VDCs including the governmental and non-governmental stakeholder organizations to carry out on-the-spot monitoring from 5th to 11th November, 2011.

Meanwhile, the monitoring team participated in the programme on women's rights in the district on 7th November organized by Shakti Samuha, an organization working in the field of women's rights. Similarly, on 10th November, the NHRC team organized an interaction in collaboration with the Self Reliance Center- Melamchi.

Though women populace comprised of 1, 76,249 of the total 35,7,143 population, the overall status of women's rights in the district wasn't found that satisfactory. Despite the fact that the right to life has been realized in the post conflict scenario of the district, the right to life has been violated at times due to various other reasons.

As per the information received through various stakeholder concerned in the district, a number of incidents of human rights violations were perpetuated against women in the district.

44 participants took part in the programme.

## Incidents of HR violations reported amidst normalcy in West: Justice delivery side taps impetus

**K**aski: Despite the fact that the incidents of human rights violations and excesses are found to be declining, the human rights culture didn't seem to tap development due to the lack of rule of law and pervasive culture of impunity. The sporadic incidents of criminal offenses were reported this month as well due to the lack of peace and security in the districts of west, the report says.

A business person in Myagdi threw a boy named Nikesh, 6, of Kuhu - 4 into Myagdi river for want of a gold coin worth around 25 hundred rupees.

Similarly, the perpetuation of the incidents of physical and mental



Participants and the panellists discussing on the human rights situation in western region

torture inflicted on the school children was reported rampant in the region. The issue as such was

the center of discussion among the participants in an interaction held on "National Framework

and Implementation Guidelines on school as a zone of peace 2011. The corporal punishment and inessential political activities in the academic institutions have discarded the children's rights to education in free environment, as per the NHHRC office-Pokhara.

On justice delivery side, the district court of Manang has dispensed the verdict over the infamous incident of two year old massacre in which 7 people from Gorkha district were murdered. These ill-fated victims had arrived at a place called Naar to collect Yarchagumba (traditional Viagra). 6 persons convicted for the cold blooded murder have been

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## Faulty air services leave impact on commuters of remote districts in Mid West: **Right to Freedom of Movement monitored**

**J**umla: Life in the remote Himalayan districts was hit hard as the irregular air services continue to persist 'free for all' in the region. In this connection, the NHRC sub regional office Jumla carried out monitoring from 7<sup>th</sup> till 15<sup>th</sup> November, 2011 following the complaint lodged at the NHRC Central Office with regard to the unmanaged air services including messy selling of tickets, irregular flight schedules, excessive air fare on the part of both private and government owned airlines.

The problematic air services have apparently caused the deprivation of people's right to dignity, right to freedom of movement, right to information and right to access to justice and right to participation in the area, the report submitted from the NHRC sub regional office, Jumla says.

The NHRC team conducted monitoring at the civil aviation office, Jumla, local offices of various airline companies and Nepal Airline Corporation and collected information about the effective air services in the region. The team also carried out on-the-spot monitoring and obtained information from the air passengers traveling to and from mid-west.

During the monitoring, the team discovered the adversely messy airline services both on the part of the Nepal Airline Corporation and private owned airline companies. The tickets were distributed in haphazard manner in

the name of quota without maintaining any transparency. Security personnel on duty at the airport were found to be careless in letting the passengers in the airport. The influential persons were given entry allowance without boarding pass. This act obviously jeopardizes the security of the sensitive place like air terminal, the report unveils.

Above all, the widespread irregularity was found in the air fare of the Nepal Airline Corporation, Sita Air, Air Makalu and Goma Air. Despite this, Adi Prasad Neupane, 65 and his blind daughter Jandevi Neupane, 31, of Garjyangkot VDC en-route to Nepalgunj were stranded for 7 consecutive days. Similarly, a few on board passengers of Sita Air were forced to get down from the plane twice.

During the monitoring, the team interacted with the Purna Prasad Neopane-Assistant CDO, Rajesh Nayak -Assistant Manager of Civil Aviation of Jumla, Chakka Dangi, Station-in-Charge of Sita Air, Sadu Acharya of Nepal Airline, Jumla Station Loader, Govinda Acharya, Station-in-Charge of Makalu Air.

The NHRC sub regional office Jumla has, therefore, sent in the recommendations with regard to the deteriorating problems of airline services prevalent in the district.

The recommendations basically stress on the steps to be taken from the concerned Ministry of Tourism and Civil Aviation



*NHRC officer interacting with the airport official during the monitoring on air services and freedom of movement in mid-west*

should promulgate strong policy to maintain uniformity in air fare for the passengers traveling to and from mid-west. GoN ought to give clear directives to the private airline companies to have robust system of operation including the offices established out of the airport which will help fulfill the public grievances at ease. Also it is recommended that the tickets be sold in transparent manner so as to evade the possible black marketing. The surprise monitoring and inspection is deemed necessary on the part of the Civil Aviation to enhance the effectiveness of air services in the area, the report reads.

## NHRC concern drawn to the closure of a school in Sunsari

**S**unsari: A team of NHRC Eastern Regional Office led by Regional Head Koshraj Neupane monitored the closure of a school at Rajganj Sinwari VDC in Sunsari District on 22 October. The school having a total strength of 427 students had been closed down since May, 2011.

The team interacted with the students, guardians, teachers, Chair of the school management committee including the local residents in order to collect information about the cause of school closure. The team stressed that, in any case, the closure of school is not acceptable since it is against the principle of best interest of the child and also it is outright against the children's right to education.

In this connection, NHRC officials also met with the Head of District Education Office in Inaruwa and duly urged to take immediate step to create an environment to open the school at the earliest possible which would restore normal teaching and learning process.

## Sit-in, Relay 'Fast unto to Death' programmes monitored

**K**athmandu: The city capital Kathmandu has been witnessing a couple of protest programmes organized by the disgruntled workers terminated from their jobs. In this connection, the monitoring team took to the spot where it monitored the sit-in programme organized by the daily wages workers of the Nepal Electrocute Authority (NEA) in front of Ratnapark NEA office on November 24, 2011.

Placing their demand for unconditional instatement in the positions they held in the past, the daily wages workers had staged sit-in programme in front of the NEA office, Ratnapark, Kathmandu. The team found that having tight security arrangement in the area, the sit-in programme was found peaceful, though, the demonstrators, as usual, chanted the slogans to reinstate them in jobs they had been removed from. In a bid to control the demonstrators later, the security force was reported to have used force in which 14 people were learnt to have sustained injury, as per the report.

Meanwhile, the team also monitored relay 'Fast unto death' programme organized at



*NHRC officer and intern during monitoring on "Fast unto Death" programme organized by ex-security personnel and ex-army in Kathmandu*

Babar Mahal, Kathmandu by the former security personnel who had resigned from their service during the armed conflict. Having their demand placed forth for their immediate job reinstatement, the demonstrators have been staging programme for many days now. Since, the programme was organized peacefully at the south gate of Singha Durbar, the security force didn't intervene or use any force. However, two among four demonstrators namely Dinesh Singh and Time Prasad Niraula were found to have fallen sick, the report says.

# NHRC holds Human Rights Based Approach (HRBA) to Development training in Far West



Participants during group works at a training held on HRBA to development in far-west

**K**ailali: NHRC regional office, Dhangadhi conducted a workshop on Human Rights Based Approach (HRBA) to Development in Far-West district of Kailali. The event is one of the series of programmes conceptualized for integrating HRBA to developmental works. Having representation from the targeted stakeholders of the region, the training lasted for two days effecting from 15 till 17th October, 2011.

The training sessions entailed various activities such as paper presentation, group works, state obligation towards the protection of human rights as well as the certificate distribution.

Forwarding the suggestions on the follow-up review of the training, the participants urged the continuity of the training that would aim at preparing the internal trainer/ facilitator in the days to come.

40 representatives from various government offices including District Administration Office, District Education Office, District Prison, District Development Office, Municipality Office, District Health Office, Office of the District Attorney, District Police Office including the other organizations active in the district of Kailali, Doti, Bajhang, Bajura and Achcham participated in the training.

The two day training was facilitated by Advocate Rajesh Hamal and NHRC staff.

## Role of stakeholders stressed in safeguarding rights of senior citizens

**K**anchanpur: NHRC Regional Office, Dhangadi held a workshop on the protection of rights of senior citizens in Mahendranagar on September 27, 2011. The programme was one of the series of events organized for the protection of the rights of senior citizens in the country. The Commissioner Ram Nagina Singh was the chief guest of the programme in which the District Attorney Durga Prasad Upreti was the guest of honor.

The objective of the programme was to identify the problems faced by the senior citizens and overall situation of their rights including the provision of senior citizen allowance.

At the programme, Tek Raj Panta presented the paper on the de-facto situation of the rights of senior citizens in the Far West while Siddha Raj Pant - Programme Officer of District Development Committee presented the paper on the social security programme to ensure the rights of senior citizens.

Suggestions and comments were collected from the participants towards the end of the programme.



NHRC officer addressing a workshop programme on rights of senior citizens held in far-west

68 participants representing various governmental and non governmental organizations, senior leaders of civil society, Women and Elder Citizen Service Center - Kanchanpur, Bajjnath Geriatric Home - Kanchanpur including various local media took part in the workshop.

NHRC has been incessantly lobbying for the protection of the rights senior citizens through various programmes and activities as per the objectives laid out in its strategic plan.

## Workshop on ESC Rights Indicators held in East

**M**orang: The National Human Rights Commission and WOREC-Nepal organized a two day workshop on 'Monitoring ESC Rights through Indicators' in Biratnagar with the support extended from OHCHR-Nepal on 17-18 November, 2011.

The workshop highlighted the core content of the indicators, Non-Discrimination Identifying and Describing violations, Justifiability of ESCR. The user's guide to monitor ESCR was also distributed among the participants during the programme.

The participants also stressed on different indicators for monitoring launched by their respective organizations. 30 participants from the districts of Jhapa, Sunsari, Saptari, Udayapur, Ilam and Taplejung participated in the workshop.

# Interaction on rights of senior citizens held in West: Role of stakeholders stressed in safeguarding the rights of senior citizens



Director Yagya P. Adhakari, NHRC Regional Office, Pokhara addressing a programme on rights of senior citizens held in Kaski

**S**yangja: The NHRC Regional Office Pokhara organized an interaction on October 24, 2011 on the role of stakeholder for the protection of rights of senior citizens Deputy Director Yagya Adhikari,

Chaired the programme in which Nav Raj Baral -Deputy CDO of Syangja was the chief guest. Human rights officer Yasodha Banjade shed light on the objective and rationale of the programme.

The day long programme entailed the sessions aimed at identifying the problems faced by the senior citizens in the society to which the role of stakeholders was sought to safeguard the rights of elder citizens and their social security. The interaction also included the agenda to establish collaboration with the local level governmental and non-governmental organizations and to develop the network in the area.

Meanwhile, the presentation was made on the NHRC's functions, duties, and mandates including the activities laid out in the annual plan.

During the programme, comprehensive discussions were held among the participants on the senior citizens' grievances. The participants threw light on the ill treatment perpetuated

on senior citizens in society and voiced in unison for the protection of their rights with self contemplation to be made by the state actors. Also discussed was the monitoring of geriatric homes in the district, meager allowance provided in knotty way to the senior citizens, incorporation of moral education in the school level curriculum

Having the NHRC outreach at the grassroots level, the interaction also focused on mass awareness via human rights education.

50 participants comprising the officials of various government offices, representatives of the political parties, NGOs working in the field of rights of senior citizens, civil society members, teachers, media and other stakeholder organizations and agencies took part in the interaction.

## HR Defenders, Stakeholders benefited from Workshop on Child Rights in Rasuwa

**R**asuwa: The NHRC conducted a workshop on child rights in the district of Rasuwa on November 20, 2011. The programme is one of the series of the promotions activities laid out in the annual plan. The objective of the programme was to orient the local HR defenders and the stakeholders on the basic concepts of Child Rights, to cognize about the mandates of NHRC at the local level in order to have the outreach of NHRC.

NHRC coordinated with the local HR defenders to enhance the knowledge about the basic concept of Child Rights and to enhance the knowledge and skills of HR defenders

in the field of Child Rights via workshop. HR Officer Samjhana Sharma facilitated the programme whereas HR Officer Suresh Malla facilitated his presentation on conceptual clarity of child rights and monitoring on human rights with special focus on child rights.

The participants proactively participated at the workshop and offered their comments and suggestions. They unanimously came up with the view that the prototype programmes be conducted in order to enhance the capacity of the stakeholders for child rights. Urging the NHRC's outreach at the grassroots levels, the participants stressed

over the instantaneous complaint registration access and handling of incidents related to the child rights violations in practical term whether or not reported. Likewise, during the programme, the local level network was developed among the organizations active in the area.

The workshop was conducted following the NHRC annual programme under SCNHRC project. NHRC has been conducting series of workshops for the local HR defenders, concerned stakeholders including govt. officials, Nepal police, Nepal Army and other local stakeholders including journalists and law professionals.

## Interaction held in West on National Framework and Implementation of Guidelines on School as a Zone of Peace-2011

**K**aski: The NHRC regional office Pokhara in coordination with CWIN, Pokhara and INSEC Pokhara organized an interaction on National Framework and Implementation Guidelines on school as a Zone of Peace 2011 on November 10, 2011.

The objective of the programme was to convey the message with regard to the recent adoption of the guidelines and to encourage the stakeholders to form the district level committee on the school as a zone of peace.

Speaking at the programme, Isswari Raj Regmi - Assistant Chief District officer of Kaski said that children being the pillar of

tomorrow's nation, the protection of their rights would be possible only through the collective effort.

Regional Administrative Officer Bhuma Prasad Rai as well as District Education Officer of Kaski district expressed their commitment to form the district level committee in coordination with the joint secretary and commence the orientation on the guidelines via meeting held among the school principals from the forthcoming month.

A 75 participants comprising officials from the government offices, representatives of political parties, non-governmental organizations, civil society, media and other stakeholder agencies participated in the day long interaction.



# NHRC's Appeal to The Chiefs of three Major Political Parties

Lalitpur, September 22, 2011

**Subject:** Drawing attention to pledge support

Dear Chairperson,

The contribution of the political parties with regard to the promotion and protection of human rights, as widely known, is significant. The Interim Constitution of Nepal-2007, Comprehensive Peace Accord (CPA) including the recognized international instruments have bestowed the responsibility upon the political parties with regard to aptly management of peace, human rights and political transition. Let me inform you that the National Human Rights Commission (NHRC) has been closely observing the contribution made both by your party and you on individual level to put an end to the ongoing peace process in Nepal. I would like to hereby express my thanks as the Chairperson of the NHRC for the commitment expressed by your party both on organizational and personal level for the promotion and protection of human rights.

Today, there are three main issues that I have raised through this letter:

- a) **Independence and Autonomy of the Commission**
- b) **Transitional Justice and Case Withdrawal**
- c) **Criminalization of Politics**

I express my expectation that your political party including you, as the leader of the major political party, would pledge active and result oriented support to the issues raised herein.

**a) Independence and Autonomy of the Commission**

You are aware that, established as per the Human Rights Commission Act-1997, the NHRC was elevated to the constitutional body by the Interim Constitution of Nepal - 2007. On the one hand, the NHRC Bill- 2064 is under consideration in the Parliament while on the other hand, there have been debates on the independence and autonomy of the Commission. Provided the Commission is made confined at the disposal of the Government's supervision like any other constitutional bodies, the Commission can't fulfill the responsibilities for the protection and promotion of human rights of the Nepalese people mandated by the constitution. The Commission, therefore, is of the opinion that the jurisdiction demarcated for the Commission should be as per the standards determined by the UN Paris Principles. Likewise, the government agencies are least bothered to implement the NHRC recommendations. The government is oblivious to adhere to the recommendations that appeal to take action against the accused as per law. We are, therefore, very much eager to know the perception of your party regarding the independence and autonomy of the Commission. Similarly, I expect active support for the promulgation of effective legal provision for the implementation of the NHRC recommendations from your party and your end.

**b) Transitional Justice and Case Withdrawal**

I believe that, by now, you must have been informed through media about the letter that I sent to Rt. Honorable Prime Minister on the "Case Withdrawal and Amnesty." I had, through the letter, formally drawn the attention of the Prime Minister to take substantial step towards peace process, to not withdraw the case of political crimes of criminal nature and to have the governance in compliance with the rule of law.

The days that followed the Comprehensive Peace Accord (CPA) do not appear to be encouraging from human rights perspectives. It seems that most of the days were spent in the derailment of the peace process rather than sincerely implementing the commitments on human rights. Even after elapsing of 5 years of CPA, there has been considerable delay in the formation of the Truth and Reconciliation Commission (TRC) though a few attempts have been made by the GoN with regard to transitional

justice. On the one hand, the perpetrators with regard to human rights violations haven't been brought to justice and the victims and their families haven't been delivered justice due to the absence of the mechanism as such. While, on the other hand, the accused security personnel have been rewarded with promotion and the process of arbitrary withdrawal of cases against the persons affiliated to each major political party without following any reasonable and set standard has never afforded the policy to withdraw the cases and grant of amnesty of the government to be legal and transparent.

Here, I must stress the fact that the cases of human rights violations occurred during the decade long armed conflict and those cases pertaining to post-conflict period have been placed in the same categories under the CPA and the Interim Constitution of Nepal. It is, therefore, by design, perceptible that it wouldn't be appropriate to treat them at par and apply uniform standard to the cases of both period. This would not be consonant with justice, wisdom and norms and values of international human rights. NHRC has perceived this clearly and would like to be explicit in this regard. You are well aware of the fact that the decision to withdraw the cases and to reward promotion to the security personnel already convicted of human rights violation which was done by the governments of all the three major parties viz. Nepali Congress, UCPN (Maoists) and CPN (UML) have been the issue of intense debate and disapproval among entire human rights communities.

In recent times, the agreement has been reached between the UCPN-Maoist and the UDMF to withdraw all the cases related to the Maoist armed conflict and movements of Madhesis, Janajatis, Dalits, Tharuhat and disadvantaged groups and to grant clemency in cases instituted against them. NHRC has expressed serious concern on the withdrawal of cases which might include the cases of grave human rights violations and crimes against humanity. I would like to remind you that the TRC, as endowed with provision by the Interim Constitution of Nepal- 2007, would be the last resort to decide the type of cases whether they are of political nature or not. Therefore, the TRC bears the responsibility to distinguish between cases whether they are of political or of criminal nature. In this regard, one cannot have the undue assumption pertaining to the cases to be, by design, of falsified nature just because of the involvement of the political leaders or the cadres in those cases. In other words, the process of the instituting the TRC cannot be sidelined on such ground. If such a step is taken at all, it would be against existing constitution and peace process.

The CPA-2007, as a part of the Constitution, emphasizes chiefly on the management of the combatants, rehabilitation and arms management, guarantee of human rights and stabilizing normalcy. Under the section 5.2.5 of the CPA, it is mentioned that 'Both sides agree to establish through mutual consensus a high-level Truth and Reconciliation Commission to investigate truth about those who committed grave human rights violations and involved in crime against humanity during the armed conflict and to create an environment of reconciliation in society.'

Therefore, the remedial solution to the incidents with regard to the human rights violation and excess occurred during the past armed conflict should be found out through the TRC provisioned through the CPA and the Interim Constitution of Nepal. The existing legal procedures must be applied to address the pre-conflict and post-CPA incidents. The Commission has time and again brought this matter, both in written and verbal, to the notice of each government formed after the CPA was signed.

The NHRC is not negative about the withdrawal of falsified cases filed on the political ground during the Peoples' Movement and various other Movements launched by the deprived and marginalized communities for autonomy and rights. Nor do we have any objection against the withdrawal of the false cases. The Commission expresses dissatisfaction over the process of withdrawal of cases or grant of amnesty to be offered to the cases to which the court has already dispensed decision. The Commission, in particular, stresses on the involvement of the TRC formed by the GoN for the investigation and enquiry to reach the decision on such cases.

#### c) Criminalization of Politics

The state of impunity is on the rise because those persons, who have been granted immunity through judicial process by withdrawing cases of the past on the basis of their political conviction, have been enjoying their stronghold in the political parties. Subsequently, the situation is such that the administrative judiciary and the police cannot implement the existing law. During my recent visit to the eastern region of the country, those incidents which were found to have link with politics, never reached to the police administration. Even if they reached to the police, the latter either didn't register the case or showed obliviousness to file the case as per the public grievance in the area.

There is possibility for the people in general to develop dispirited notion towards the entire politics as because various political figures have been indulged in crimes and also the accused of heinous crimes often acquire shelter under a particular political party after CPA. This obviously is downright problematic scenario. It is well known that rage and erosion in confidence of general citizens towards political figures and the increasing dispirited impression towards politics would be dangerous for democracy and human rights. Crimes being dominion over politics, the incidents of violence and crimes have been on the rise within a single party. It has been rather difficult to drag those involved in crimes into justice through regular process. As a consequence, human rights and rule of law have been in full of crises day by day.

Finally, the NHRC is in view that the constitutional or legal provisions pertaining to the withdrawal of the cases or grant of amnesty without prior probe or investigation should have appendage attached to conform to globally recognized international human rights norms and values. Since TRC is the only way out to settle down the incidents related to the conflict period, I expect that your party would pledge support to form the long pending mechanisms without any dilly dallying to give impetus to judicial process and to protect human rights and rule of law thereby discarding the dominance of the people having criminal background in political parties.

#### Kedar Nath Upadhyay

Chairperson

National Human Rights Commission, Nepal

For electronic version of the letter, visit:  
<http://www.nhrcnepal.org/publication/doc/papers/Case%20Withdrawal%20-%20Letter%20to%20PM.pdf>

## NHRC welcomes the Consensus for Constitution and Peace: The formation of effective transitional mechanisms urged

**L**alitpur: The National Human Rights Commission, by issuing a press release, has welcomed the consensus for peace and constitution reached between the chief political parties on November 1, 2011. 'Having signed the consensus at the threshold of the fifth year anniversary of the Comprehensive Peace Agreement (CPA), the NHRC is assured that such a breakthrough would expedite the peace process towards conclusion and framing of human rights friendly constitution.' the press release reads.

The formation of Truth and Reconciliation Commission and the Commission on Enquiry of Enforced Disappearances within one month has brought in a ray of hope for early delivery of justice to the victims of conflict related incidents of human rights violations. In this regard, the NHRC has been conducting investigation and maintaining documentation on the incidents of human rights violations of armed conflict period ever since. In this context, the NHRC is all set to collaborate upfront with the newly formed mechanisms. Equally crucial is the formation of mechanisms for transitional justice in accordance with the international standards of human rights which ought to be independent, competent and reliable, the press release says. .

The press release further states that the issues such as the fair distribution of relief to the conflict victims, returning of the confiscated property to the rightful owners, and ensuring the rights of peasants through scientific land reforms have been prioritized in the Consensus. This is very much positive endeavor from human rights perspective.

The Commission has, therefore, appealed to all the concerned parties to render necessary support for the effective implementation of the consensus reached between the three major political parties including Samyukta Loktrantri Madhesi Morcha (Unified Democratic Madhesi Front), protect human rights and put an end to the state of impunity.

# Workshop held on untouchability and caste-based discrimination (Crime and Punishment Act 2068)



NHRC officer, panellists and participants during the inaugural function of a workshop on untouchability and caste-based discrimination organised in Khotang

**K**hotang: The NHRC Sub regional office in collaboration with the OHCHR-N, Dalit Commission and Human Rights Network, Khotang organized a district level workshop on untouchability and caste-based discrimination (Crime and Punishment Act, 2068) on November 18, 2011.

The objective of the programme was to facilitate the local level stakeholders in internalizing the caste-based discrimination and untouchability (Crime and Punishment Act, 2068) endorsed by the legislative parliament.

Having realized the crucial need of the implementation of the Act even in grassroots level, Assistant HR Officer Lok Nath Ghimire of NHRC sub regional office, Khotang said that the stakeholders in the area would be made aware of the Act through various prototype programmes in the days ahead.

Expressing commitments to adopt and implement the stipulated Act, the participants representing various state agencies and organizations, political parties, non-governmental organizations also spoke on the accession. 60 participants from across the district attended the day long workshop.

It can be recalled that the lines in the Interim constitution of Nepal - 2007 have the provisions that no person shall, on the ground of caste, descent, community or occupation, be subject to racial discrimination and untouchability in any form. Such a discriminatory act shall be liable to punishment and the victim shall be entitled to compensation as provided by the law.

## Effective implementation of the newly Act stressed

**M**orang: The participants of a programme in Biratnagar have stressed on the effective implementation of the newly enacted Act against untouchability during a programme jointly organized by the NHRC, eastern regional office and Redef Nepal on Nov. 11, 2011.

The programme was organized in order to increase awareness on the law. During the programme, the participants alerted the authority to be aware of any obstruction caused by any sector against the implementation of the Act whatsoever. Further, they stressed on sensitization programme to be organized at the local level.

The programme was facilitated by the Head of NHRC Eastern Regional, Mr. Koshraj Neupane. Mahesh Regmi (CPN-UML), Bhubaneswar Mandal (NC), Umesh BK (REDEF), Manjita Upadhyaya (WOREC), Chandni Parajuli (NBA), Himalaya Trital (Legal Officer, DAO), Sanju Shah (BAPERDEC), Rajan Poudel (Plan Nepal), Trilok Neupane (Prayas Nepal), Sarita Dahal (NBS) also spoke on the occasion.

## Dalit HR Defenders visit NHRC Office, Biratnagar

**M**orang: A team of Dalit Human Rights Defenders visited the NHRC Eastern Regional Office, Biratnagar recently. The objective of the visit was to gain knowledge about the role of NHRC in protection and promotion of human rights, in particular the rights of the Dalits.

The team visited complaints handling section and other sections of NHRC. Regional Head, Koshraj Neupane briefed about NHRC mandates and the areas of intervention it is doing in the field of human rights. He also stressed on the collaboration with HRDs for human rights cause. The visit programme was coordinated by REDEF, Morang.

## Discussion held on situation of untouchability and caste-based discrimination

**M**orang: One day discussion programme on the situation of the racial discrimination and Untouchability was held at NHRC regional office, Biratnagar on 6th November, 2011. The programme was organized by the sub-committee to conduct study on racial discrimination and practices of untouchability in eastern Nepal.

During the programme, six members of Legislative Parliament, including Coordinator of the committee Hon. Binod Pahadi shared their experience based on the information gathered from Jhapa, Ilam, Saptari, Siraha, Panchthar, and Taplejung. Human rights defenders and journalists present in the programme offered their views on the newly enacted Act. NHRC Eastern Regional Office had coordinated the programme in Biratnagar.



Guest invitees, panellists and participants during an inaugural of a workshop held on untouchability and caste-based discrimination in Morang



# Consultation held on Government's Periodic Report on Convention on Rights of Child (CRC)



Participants at a consultation held on draft on Govt. periodic report on CRC prepared and shared to the NHRC for necessary inputs

**L**alitpur: Chairperson Justice Kedar Nath Upadhyaya has said, 'Child rights are often placed in double digit column in the list of rights as because the children cannot articulate to raise voice for their rights all by themselves. The recent abduction and killing of a child to take undue vengeance of the family speaks off pathetic scenario of child rights in the country.'

At the programme, child rights specialist Mr. Shiva Poudel presented the paper on the combined 3rd, 4th and 5th draft report on the CRC to be submitted to the CRC Committee, Geneva. The objective of the programme was to obtain suggestions and comments from the representatives of the concerned stakeholder organizations on the draft report shared by the government.

Speaking as the chair of the consultative programme on the CRC draft report held on 28th November, 2011, the Chairperson said, 'Amidst the incidents of stringent crime of kidnapping and killing, illegal adoption is ceaselessly prevalent. Disposing of bad laws, commissioning of legal reform as well as fast track code, therefore, would be a way out to control and prevent the trafficking of children in guise of adoption.'

Adding that NHRC is in view of having outreach expansion across the country in all 75 districts, the Chairperson said, 'In the scenario of all commissions becoming constitutional bodies, the NHRC conceptually envisages for an umbrella Commission having its 'Ex-Officio' at the center. The litigious issue, nonetheless, is evolving the Child Rights Commission. We got to see how far these matters can be materialized in the days to come.'

Thanking the child rights specialist Shiva Poudel for his presentation on the draft report, the Chairperson said, 'We have to think seriously about the ratification of all

those treaties related to child rights before we send in the recommendation. The need of the hour is to assess how successful is the state in implementing the existing CRC.'

Facilitating the input on the report, Member Ram Nagina Singh said, 'Citizenship provision is entailed with a problematic cleavage of birth registration as the VDC secretaries aren't reinstated yet. With regard to the child court and child rehabilitation center, there is a bench in the court. However, the rehabilitation centers are yet to take their shape.'

'Situation is such that, ironically, despite the apex court decision, Chief District Officer is reluctant to provide the citizenship in the name of mother on the ground that Home Ministry hasn't issued any written directives as such.' Member Singh reiterated.

Member Gauri Pradhan said, 'At a time when ICC has reviewed the NHRC's UPR inclusively of child rights situation in the country, government has made 31 commitments in the CRC report of the past. We got to examine the principle setbacks of the outcome and impact assessment. In other words, attention should be drawn to the implementation side, however.'

'While we review the general and specific comments, we should bear in mind why mainstreaming of child rights couldn't be realized. In this concern, the non-governmental organizations working in the field of child rights demonstrate their contemplation to raise their voice for the inception of Child Rights Commission which is inevitable at the moment,' Member Pradhan urged.

Concluding his remark, Member Pradhan said, 'NHRC will conduct thorough study of the report. We have gathered all of your comments and suggestions which will be

incorporated in the report prior to sending it to the concerned.

Special Rapporteur Ms Padma Mathema said, 'The report, if comprehended with the data base including relevant source, would paint authentic picture of rights situation of the child.'

Urging the clear information about NHRC's progress on child rights issues to have made public, the participants stressed in unison that the child rights organizations work on the basis of *sou motu* cognizance in order to curb the practice of child labor.

During the programme, critical but constructive suggestions and comments were collected from the participants on the draft report. They include commitments made by the government in the first and second periodic report on CRC, child rights situation incorporated in the UPR and their linkage as well as Rome Statute provisions.

Participants discussed on the status or rights of child specially focusing on the de-facto status of the child rights and their protection and promotion, citizenship provision, child labor, juvenile delinquency, rights of dependant children of inmates serving their jail term, vulnerable juvenile justice system, socio-psychological problem faced by the conflict affected children, child trafficking in the guise of adoption and unsafe migration.

Further discussions were held on the rehabilitation of the conflict affected children, emerging incidents of abduction and killing of the children, right to life, rights of children with physical and mental disability, National Child Protection Policy, rampant corporal punishment, nutrition and scholarship provision to the children, NHRC's perspective on rape committed on adult and minor as well as feeble implementation of the commitment of the government.

At the programme, Delli Guragain - Save the Children, Dani Lohar - UNICEF, Kopila Adhikari - Advocacy forum, Madhav Gyawali - CWIN, Krishna - INSEC m Krishna Subedi - President of Child Rights Organization, Shree Ram Adhikari - NHRC, Hemang Sharma - SCNHR, Neetu Gartaula - NHRC, Sarita Gyawali - NHRC Yasodha Bandjade - NHRC, Kamal Kshetri - NHRC, Narendra Khatiwada - child rights activist, Badri Prasad Siwakoti - child rights activist, Indira Ranamagar - child rights activist, Devika Timilsina - Child rights activist also shared their comments and suggestions during the programme.

The participants comprised of the NHRC office bearers and staff members, legal experts and representatives of various child rights organizations. The programme was moderated by Deputy Director Durga Khadka.

# Interaction held on Exhumation Guidelines: Vital instrument to support transitional justice mechanisms

**L**alitpur: The NHRC held an interaction on the draft of Exhumation Guidelines on November 22, 2011. Chaired by the Chairperson Justice Kedar Nath Upadhyaya, the discussion session was held among the office bearers of the NHRC.

HR Officer Shyam Babu Kafle presented the paper on exhumation guidelines on behalf of the NHRC. The content of the guidelines was inclusive of the clause related to authorization of launching of exhumation mission upon receiving the complaints. The guidelines would be vital for the state and the state authorities to adopt while commissioning exhumation any time after its endorsement. German Anthropologist Dr. Udo Krenzer provided basic inputs while preparing the draft; it is learnt.

Speaking at the programme, Chairperson said, "I hope the formulation of guidelines bears relevance as it can render support to the would-be formed transitional justice mechanisms. I am confident that the guidelines would be instrumental in mitigating the confusion whatsoever emerged during the exhumation in the past."

Member Ram Nagina Singh put forth his suggestions with regard to the lines in guidelines and its adoption. Member Pradhan has provided his inputs on the guidelines in written. Secretary Bishal Khanal was also present in the programme.

Director Bed Prasad Bhattarai said that the proposed guideline can be unsparingly supportive for the soon-to-be formed Truth and Reconciliation Commission and the Commission on the Enforced Disappearances including the NHRC itself in order to locate and trace the whereabouts of the disappeared persons. Importantly, the guidelines would be vital for implementing not only for the incidents of disappearances caused during the conflict period but also for those incidents in which the person gets killed and buried illegally; it was made known during the programme.

Valuable inputs were received from the NHRC officials during the discussion. The consultative discussion on the draft guidelines will be arranged with the government and other stakeholder organizations any time soon.

Prior to holding the discussion, the suggestions were obtained from the participants during the training on exhumation procedures held at Butwal and Kathmandu separately. The participants of the training comprised of the NHRC officers, HR defenders, doctors, district attorney, and private legal professionals including the officers of Nepal Police.

As of today, NHRC has carried out exhumation of dead bodies in connection with 13 incidents both as investigating and monitoring agency.



*Member Gauri Pradhan, Director Bed Prasad Bhattarai and Dr. Harihar Wasti along with the HR officer trainees during a training on exhumation procedures held in Kathmandu*

*Continued from page 2*

## Incidents of HR....

sentenced life imprisonment, 13 convicts will serve two years jail term while 21 accused have been given clean chit by the district court of Manang.

Schools in Mustang district have been closed down effecting from the month of November, 2011 as the teaching and learning has been obstructed due to the unbearable chillness in the district. Following this situation, two mobile schools have been in operation in Pokhara to continue the teaching and learning process for which the financial support is extended from the district education office of Mustang and the concerned VDCs, the report reads.

Karna Bahadur Nepali, a teacher of Talbarahi Primary School situated at Ghandruk of Kaski district has been assaulted with a black tar smeared on his face by the local residents. The incident took place when a dispute took an extreme turn on the issue of organizing a party on the occasion of the inauguration of drinking water project accomplished through

the support extended from the British Welfare Center, as per the report.

The human rights situation in the district is in a dismal state. No scientific methods are adopted during the investigation carried out at the places of detention. Most of the prisons and detention centers were found to be overcrowded. The detention center and the prisons are in a sorry state due to the lack of timely renovation. Subsequently, the rights to basic amenities of the inmates have not been realized.

The state authorities bearing the responsibilities for the protection and promotion of human rights of the citizens seem to be dispirited to help the citizens in justice delivery. The citizens in this region are agonized due to the deprivation of justice due to the obliviousness shown by the state authorities as evidenced by the complaints registered at the NHRC Regional office on various dates. The incidents of the violation of civil and political rights as well as ESC Rights continue to occur due to

the deep rooted culture of impunity and the lack of implementation of law and order and political instability in the country, the report concludes.

Meanwhile, the NHRC regional office has received 4 complaints with regard to disappearances, killing and racial discrimination whereas 14 investigations have been carried out by the Commission in the current month. The Commission also carried out a monitoring on the rights of child and the children's right to education. 3 promotional activities including the interaction on the rights of senior citizens, overall human rights situation in the region and School - a Zone of Peace were conducted.

Similarly, various pending cases based on the complaints lodged at the regional office have been finalized and repealed during the Commissioners visit to the regional office on various occasions. The files pertaining to the cases to be finalized have been sent to the central office accordingly, the report unveils.

# Rights of Persons with Disabilities hauls Priority: Role of NHRC among others stressed

**L**alitpur: Having viewed the rights of persons with mental disabilities from human rights perspective, NHRC in collaboration with the KOSHISH, National Mental Health Self-Help Organization for the rights of persons with disabilities, organized an interaction at NHRC on November 15, 2011.

Chaired by Member Gauri Pradhan, the objective of the programme was to identify problems faced by the persons with mental disabilities and to ensure their rights.

At the outset, Mr. Matrika Prasad Devkota, chairperson of Koshish, presented the paper on the current status of the persons with mental disabilities and the initiatives endeavored by the state and the other social organizations.

While the ignorance of health services for the persons with mental disability remained the centre of discussion, the representatives of stakeholder ministries, departments and organizations shared different views on the problems faced by the persons with mental

disabilities and their rights provisioned in the constitution. They further argued that mental hospitals lacked the resource crunch.

Secretary Bishal Khanal said, 'Since mentally ill persons surprisingly composes of very huge but vulnerable section of the society, their privileges should be treated with human rights perspectives.'

'Main streaming the grievances of the mentally ill citizens including holistic measures deviated towards the issues related to socially discarded citizens is apparently inevitable to curb social stigma,' observed Secretary Khanal.

In this regard, the Convention on the Rights of Persons with Disabilities and its Optional Protocol (CRPD) was adopted on 13 December 2006 at the United Nations Headquarters in New York, and was opened for signature on 30 March 2007. There were 82 signatories to the Convention, 44 signatories to the Optional Protocol, and ratification of the Convention. This is the highest number of signatories in history to a UN Convention



NHRC Secretary Bishal Khanal addressing the programme on Rights of Persons with Mental Disabilities held at NHRC

on its opening day. It is the first comprehensive human rights treaty of the 21st century and is the first human rights convention to be open for signature by regional integration organizations. The Convention entered into force on 3<sup>rd</sup> May 2008.

Nepal government has ratified 7 international conventions and more recently Nepal has become one of the signatories of UN Convention on the Rights of Persons with Disabilities (CRPD) in January 2008.

Dr. Arvind Kumar Mallik -WHO, Dinesh Chapagain - Department of Health Services, Shobha Yadav - WOREC, Dila Ram Panthi - National Planning Commission, Dr. Surendra Serchan - Mental Hospital, Jaganath Lamichhane - Nepal Mental Health Foundation, Madhav Pradhan - CWIN, Purnima Guragain - Bir Hospital, Ram Pyari Sunuwar - Ministry of Law and Justice, Dr. Raj Nath Pandey - Ministry of Education also shared their opinions during the programme.

# NHRC clinched the title in HR Friendly Football Tournament organised to mark 63<sup>rd</sup> Human Rights Day-2011



**L**alitpur: Internalizing the universal slogan "Celebrate Human Rights" this year, the NHRC organized a human rights friendly football tournament as one of the series of programmes laid out to mark this great day. Six teams including NHRC, Dalit Commission, OHCHR-N, INSEC, Advocacy Forum, and Radio Sagarmatha participated in the tournament held at Jawalakhel football ground from 4<sup>th</sup> to 7<sup>th</sup> December, 2011. The tournament was held on knockout basis. The host NHRC



NHRC Chairperson Kedar Nath Upadhyay, Member Ram Nagina Singh, Secretary Bishal Khanal, Directors along with the match officials and the team members of final match being played between NHRC and Radio Sagarmatha

team and Radio Sagarmatha contested in the final match on 7<sup>th</sup> December, 2011. The NHRC team was declared the winner while Radio Sagarmatha bagged the runners up title.

The human rights friendly tournament held with true spirit of sportsmanship is to send in the message for the protection, promotion and realization of human rights far and wide.

# Chairperson of NHRC-Bangladesh visits NHRC-Nepal: Regional collaboration stressed

Lalitpur: Professor Mizanur Rahman, the Chairperson of NHRC- Bangladesh, who was on a courtesy tour to Nepal, called on the NHRC on November 15, 2011. A programme was held with professor Rahman in which Chairperson Justice Kedar Nath Upadhyay, and other office bearers including the staff members were present.

Secretary Bishal Khanal, on behalf of the Commission, welcomed Professor Rahman to the programme. He also thanked the Chairperson for sparing his time within very short notice.

Addressing the programme, Prof. Rahman said, "NHRC- Bangladesh is the youngest of all NHRIs in South Asia and we have much to learn from other NHRIs such as NHRC-Nepal. Since our goals are identical, we wish to sustain the collaborative effort to foster human rights culture at least in sub-continent.'

Adding that NHRC Bangladesh wishes to take up the issues jointly and address them adequately in all spheres of human rights and in the areas like climate change in respective countries, Professor Rahman said, 'Problems related to marginalized and disadvantaged section of the people in Bangladesh is hugely prevalent, while, on the other hand, the attention of the NHRC Bangladesh is often drawn to the inter-country issues such as extra judicial killing at bordering areas and prisoners.'

"With the effort inculcated by the NHRC-Bangladesh, extra judicial killing has remarkably declined whereas the country now faces the problem of disappearance. Provided the state agencies are trained through the agency such as FBI to combat this issue, the tackling of the emerging problem of enforced disappearance would be easy," observed, Professor Rahman.



Chairperson Upadhyay presenting the souvenir to Prof. Mizanur Rahman-Chairperson of NHRC Bangladesh at a programme held at NHRC



Member Ram Nagina Singh, Chairperson Justice Kedar Nath Upadhyay, NHRC Bangladesh Chairperson Prof. Mizanur Rahman and Secretary Bishal Khanal at a programme held during the courtesy visit of NHRC Bangladesh Chairperson Prof. Mizanur Rahman to NHRC Nepal (L to R)

Underlining the need of the regional mechanism to address the issue on human rights in the sub-region, Professor Rahman said that such an instrument would get shape gradually through NHRIs initiatives and we are not an exception.

Quoting the saying 'Friendship doesn't depend upon duration, but it does depend deepness', Professor Rahman thanked the NHRC for warm hospitality shown by the NHRC- Nepal.

After Prof. Rahman's short briefing about the current human rights situation in Bangladesh, NHRC Officers posed queries before him to which he responded broadly.

Recalling the meeting with Professor Rahman and his warm hospitality during the visit to Bangladesh to attend APF meeting, the NHRC-Nepal Chairperson reciprocated that it was an immense pleasure to welcome his colleague Professor Rahman, the Chairperson of NHRC- Bangladesh to the NHRC- Nepal.

Chairperson Upadhyay said that professor's sharing on NHRC-Bangladesh experiences as newly incepted constitutional body was very much stimulating and touching.

He said that the initiative for regional cooperation would get a boost if collaboration is bonded to achieve the identical goals such as the founding of human rights culture in the region.

'In this regard, we ought to explore the possibility to have MoU with other NHRIs of the sub region at least to have regional treatment through would-be set up mechanism,' the Chairperson stressed.

Reminding the talk held with the Indian counterpart with regard to the SAARC level charter on human rights, the Chairperson added that it would be expedient to have the common strategy for safe migration and to combat transnational human trafficking.

"The problem of marginalized communities should be addressed with due importance and this is how modern democracy should work,' observed the chairperson.

Wishing the best in his all his endeavors as the Chair of the youngest NHRI in the sub region, NHRC Nepal's Chairperson Upadhyay and Member Ram Nagina Singh presented the memento to Professor Rahman.



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