



राष्ट्रिय मानव अधिकार आयोग

National Human Rights Commission

केन्द्रिय कार्यालय, Central Office

हरिहर भवन, पुल्चोक, ललितपुर, HariharBhawan, Pulchowk, Lalitpur, Nepal



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The status of the implementation of the recommendation of the National Human Rights Commission and the Impunity

National Human Rights Commission

Press Conference

Date: 7 Magh 2063

Since the National Human Rights Commission was established during the armed conflict, most of the monitoring and investigation are related to the political and civil rights. On the basis of the facts and evidences gathered through the monitoring and investigation of the incidents of human rights violation and atrocities, NHRC has been recommending the government to take actions against the guilty and to provide compensation to the victims according to the Human Rights Commission Act 2053. It has also been urging the CPN-Maoist through various press releases in this respect. NHRC has made a total of 147 recommendations to the government of Nepal from the time of its establishment till Ashar 2063. However, the commission's recommendations are not satisfactorily implemented by the government. In the cases of some recommendations, the victims are provided compensation however the perpetrators were not prosecuted whereas in some recommendations the perpetrators were prosecuted but the victims were not provided compensation.

Mostly, the recommendations to publicize the whereabouts of the persons disappeared by the state, prosecution of the perpetrators accountable to extra-judicial killings and torture and to give justice to victims and to creating amicable environment for the persons displaced due to the Maoist and to provide them compensations have not been implemented. Similarly, the recommendations to make public the whereabouts of the persons taken into custody by the Maoists and to bring the perpetrators of killings and beatings to justice and providing compensation to the victims have not been implemented. It is very important that the human rights violators be punished according to law if the sustainable peace is to be established and the impunity to be put end. The scanty implementation of the Commission's recommendations has apparently fostered impunity.

Among the 144 recommendations of the Commission, only 44 recommendations were implemented - some partially and some fully. This makes it clear that the government did not fulfill the responsibility provided to it by article 13 (4) of the National Human Rights Commission Act 2053 to implement the NHRC's recommendations on time. The lack of taking actions against the individuals and institutions responsible to the past human rights violation has contributed to promoting the impunity in the state.

Bases fostering impunity due to the non-implementation of recommendations are as follows:

1. Amongst the 48 recommendations regarding the complaints of extra judicial killings by security forces, only 2 recommendations were fully implemented whereas 14 recommendations were partially implemented and 32 recommendations have not been implemented whatsoever.



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2. Among the 13 recommendations made to the Government regarding the persons killed by the CPN-Maoist, only 2 recommendations were partially implemented. 11 recommendations have not been implemented yet. The CPN-Maoist was not found cooperative in bringing the guilty to justice.

3. Amongst the non-implemented recommendations, 9 of them are regarding the disappearance and torture by security forces. Amongst the 11 recommendations made to the government by the Commission regarding these issues, only 2 recommendations were partially implemented.

4. Regarding 1 recommendation on the death of common people due to crossfire and another recommendation on the persons who sustained injuries because of security forces, the government has not implemented these recommendations so far.

5. On the one hand, 3 recommendations made to the government of Nepal regarding the protection of the rights of the internally displaced persons have not been implemented. On the other hand, the CPN-Maoist has not returned the properties they had seized to its owners and in the absence of conducive environment; the IDPs have not been able to return to their home.

The above mentioned recommendations include the Kalikot Kotwada incident (by security forces), Nagarkot Incident where 11 persons were killed, Janakpur incident where the Commission's staff Dayaram Pariyar was killed by the police and also the incidents responsible to the CPN-Maoist such as the Pilli Incident of Kalikot, Madi Incident of Chitwan and the incidents that occurred in Thankot and Dadhikot.

Following the resignation by the NHRC's Commissioner on 25 Asar 2063, there have been difficulties in making decision and recommendation on the incidences of human rights violation in the absence of the timely appointment of the commissioners. The investigations of the incidences of human rights violation such as extrajudicial killings, disappearance, illegal detention, abduction, torture, threats, displacement including the incidents relating to the economic, social and cultural rights, child rights, and the cases relating to discrimination have been completed and are in the process of decisions. However, the delay in appointing the commissioners has created difficulties in making recommendation to punish the human rights violators and in providing compensation to the victims. The number of complaints which have been investigated and are in the process to be decided has reached 870 and this makes it clear the degree that the commission's work has been hampered.

The status of the monitored and investigated complaints which are to be decided is as follows:

S.N.	Issue	No. of files at the final stage for decision making
1	Extrajudicial killings by the security forces	28
2	Killings by the Maoist	14
3	Disappearance by the security forces	337
4	Capture/Abduction by the Maoist	279



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5	Torture by the Security Forces	11
6	Torture by the Maoist	1
7	Threats by the Security Forces	18
8	Threats by the Maoist	21
9	Threats from other groups	8
10	Displaced Persons	36
11	Economic, social and cultural rights	12
12	Child rights	19
13	Regarding justice	29
14	Illegal detention	19
15	Discrimination	2
16	Others	39
	Total	870

During the period of the ceasefire between the government of Nepal and the CPN-Maoist, Maoist Supremo Prachanda expressed the commitment in a TV talk show that his party would publicize the whereabouts of the victims within a month if the National Human Rights Commission provides his party the list comprising the names of the persons captured by the Maoist. Responding to his commitment, National Human Rights Commission frequently communicated the list of the disappeared persons to the CPN-Maoist however their whereabouts were not established. Similarly, the state has also not taken measures to publicize the name list of the persons who were disappeared.

In the present context of ongoing peace process to end the 11 year old armed conflict and the general expectation of the crucial role of NHRC in protecting and promoting human rights in this situation, NHRC believes that the commissioners should be appointed immediately in compliance with the Paris Principles.

Within the period of six months (2063.04.01 to 2063.09.30), a total of 975 complaints were registered at the commission. Approximately 30% of these complaints are related to the incidents that occurred before the period of ceasefire.

Inappropriate implementation of the human rights provisions mentioned in the Peace Accord

The National Human Rights Commission's serious attention has been drawn by the failure to make appropriate mechanism and to implement the human rights provisions mentioned in the Comprehensive Peace Accord.

1. Though the Peace Accord says that both parties shall inform each other about the demarcation and storage of ambush or mines planted during the war period within 30 days and help each other to diffuse or dispose them off within 60 days, no attention has been paid in this regard. The incidents of death of general civilians due to the explosion of ambush and mines are still heard. NHRC appeals the government of Nepal and the CPN-Maoist to immediately diffuse or dispose off such ambush or mines.



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2. Though the Peace Accord provides that Armies of both parties shall not appear with arms or combat dresses in any civil meeting, political gathering or public programs, the commission's monitoring has found the fact that the Maoist's army are still appearing in combat dresses. The bullet fired by a Maoist cadre has killed a student in Lahan, Sihara on 5 Magh 2063. NHRC appeals the government of Nepal to immediately prosecute the guilty as well as also appeals the CPN-Maoist not to repeat such acts.
3. The Peace Accord says that both parties agree to publicize and release all the persons kept under detention within 15 days however the whereabouts of 646 persons disappeared by the security forces, 181 person captured and abducted by the Maoist and 49 persons responsible to the unidentified groups still remain unknown. Though the Peace Accord says that the whereabouts of the disappeared persons will be publicized within 60 days, NHRC has received information from the families of the disappeared persons that they have not been provided any information.
4. The Peace Accord states that a high level Truth and Reconciliation Commission will be formed on mutual understanding to conduct investigation about those who were involved in gross violation of human rights at the time of the conflict and those who committed crime against humanity and to create the situation of reconciliation in the society, no initiatives have been taken in this regard, and this demands that the government of Nepal, CPN-Maoist and other political parties make immediate effort to end impunity. The commission also informs about its readiness to extend technical and other forms of support to the government and political parties on this issue.
5. Though it is explained in the Peace Accord that the people displaced due to the armed conflict will be allowed to return back voluntarily to their respective ancestral or former residence and use their properties, the Commission through monitoring has collected the facts that there is no appropriate environment created for the displaced persons to return to their homes and that they had to face difficulties in using their properties. Therefore, the Commission appeals not to create difficulties for the IDPs in returning their homes and to freely use their property. It also appeals to the government that a long term rehabilitation, reconstruction and socialization policy be immediately formulated for displaced people.
6. The commission also appeals the government to improve law and order situation and to create appropriate environment for the personal liberty of individuals and for their sustenance.