

National Human Rights Commission

Annual Report 2004



Dignity, Equality and Justice for All

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ACRONYMS

APF	Asia Pacific Forum of National Human Rights Institution
EU	European Union
DIHR	Danish Institution for Human Rights
UNDP	United Nations Development Programme
ICCPR	International Convention Civil and Political Rights
UN	United Nations
OHCHR	Office of the UN High Commissioner for Human Rights
GTZ	The German Society for Technical Co-operation
ACMS	Automated Complaint Management System
CMS	Complaint Management System
CHRF	Canadian Human Rights Foundation
DANIDA	Danish International Development Agency
NHRC	National Human Rights Commission
ICERD/CERD	Convention on the Elimination of all kinds of Racial Discrimination
UNESCO	UN Educational, Scientific and Cultural Organization
ILO	International Labour Organization
UNICEF	UN International Children Education Fund
UNO	United Nations Organization
NORAD	Norwegian Agency for Development Corporation
CDNHRC	Capacity Development of National Human Rights Commission

FOREWORD

The fourth annual report of the National Human Rights Commission for fiscal year 2003/04 is presented here as per in the Human Rights Commission Act 1997. Even though the second and third annual reports of the Commission have not been discussed in Parliament because of its absence, this report appears as a matter of information for the general public. It seeks to acquaint them with the Commission's activities, the obstacles and problems encountered and the achievements made while carrying out its activities.

The Commission had to spend the first few years in building its capacity and securing adequate resources. Now the Commission is in its fifth year of operation, and the human and physical resources it has acquired have allowed it to expand its capabilities immensely. The Commission has prepared and implemented its strategic plan from this fiscal year. Realizing the fact that it would not be possible to complete all its tasks right away at a time when the human rights sector is growing rapidly, the Commission has also identified the priority areas for the next five years in its strategy. The Commission's five-year plan of action based on this strategic plan is also nearing completion. The Commission aims to carry it out in the coming fiscal year.

The Commission was established at a time when the conflict in the country had already turned violent, and, from the very beginning, it had to face challenges in its work to protect and promote human rights. But whatever the difficulties, the Commission has persevered with its efforts this year as in the past.

The main challenge that the Commission faced this year was deciding on how to settle the complaints filed at its offices regarding forced disappearances and defend human rights. Regarding the issue of disappeared persons as reported in the complaints received by the Commission, it published a list of the names of 907 persons reported as disappeared during the previous year to coincide with World Human Rights Day. The idea was to attract world attention in the hope that the international community would make positive attempts to find a solution to the problem. The Commission held discussions and corresponded with the Rt. Hon. Prime Minister focusing on the subject besides holding regular interactions with the Royal Nepal Army. The Royal Nepal Army became increasingly involved in security matters following the government's deployment of the army with the aim of bringing peace in the country, along with the mobilization of other security agencies under the concept of unified command and the perpetuation of the law regarding control of disruptive activities. As it is quite difficult for the general public to have access to the army, and since

even the Commission does not have easy approach to the security agencies, the Commission experienced great difficulties in its work to protect human rights. The Commission receives reports that most of the persons who have been arrested under suspicion of being involved in Maoist activities are in military custody. When the necessary lawful process is not initiated against a person who has been arrested for a crime but is kept in detention for an extended period without even informing the family, a situation is created whereby people disappear.

The fact that the Royal Nepal Army is involved to a great degree with the question of human rights violation in the present context is also reflected in the reports received at the Commission. Since the Commission maintains contact with His Majesty's Government, there is no doubt that the proper way would be to correspond with it regardless of the government agency that has violated human rights. However, whenever the subject has concerned the army, the action taken by other government agencies has not been very effective. The Commission cannot stand as a mute spectator to such instances either. It is the legal duty of the Commission to work for the protection of the human rights by using all available ways and means. However, the truth stands before us that the Commission faces immense hurdles in its efforts to protect human rights even when being in direct contact with the Royal Nepal Army.

In this connection, the Commission has presented to His Majesty's Government a set of recommendations regarding the minimum steps that need to be respected even in times of conflict in order to safeguard human rights. The government responded by issuing a declaration on 26 March 2004 stating its commitment to the implementation of human rights and international humanitarian laws. The Commission has taken this positively, and has also prepared and sent to the government a separate set of recommendations regarding the minimum steps that need to be taken to translate this pledge into effective practice. The Commission is waiting to see that implementation.

As in the past years, the Commission has persisted with its duties by conducting spot investigations wherever human rights violations have been reported. It has monitored the human rights situation in different districts, besides working for the promotion of human rights. The Commission has also provided suggestions and recommendations concerning various subjects to the government. The problem regarding their effective implementation, however, remains.

The Commission has been steadfast in its stand that the Maoists should respect human rights. It has maintained a record of Maoist atrocities, and has always condemned any act committed by them against human rights. The Commission has also sent separate recommendations regarding the actions they need to take to show their respect for and safeguarding of human rights. However, the Commission has received no information about any effort made by them to demonstrate their respect for human rights.

The Commission acknowledges the tremendous support it has been receiving from NGOs involved in the human rights sector. They have been a big help to the Commission by providing inspiration, aiding it with investigations, providing information about instances of human rights violations and so forth. The Commission has also been providing regular training on varied aspects of human rights to their staff. The training on human rights

monitoring that was provided to human rights workers in the non-governmental sector in all the five development regions this year is a major achievement.

The issue of safeguarding human rights has now become a subject of international concern. The United Nations High Commissioner for Human Rights, rapporteurs attached to varied human rights organizations, Amnesty International, Human Rights Watch, International Commission of Jurists and such other INGOs have been constantly concerned about human rights in Nepal. The Commission welcomes the efforts made by these agencies to give it international exposure. Similarly, the government, different political parties and diplomatic missions based in Nepal have been supporting the Commission's work and have provided it physical, financial or moral help during critical times. The Commission wishes to express its gratitude to them.

The Commission has played an important role by maintaining contact with international human rights organizations and making its presence felt at international human rights forums. This year, despite many hindrances, the Commission held the Eighth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions in Nepal which was a success. The conference was also an opportunity for the Commission to make a strong showing to the international community.

I would like to express my gratitude for the support, advice and encouragement provided to the Commission by national and international sectors to carry out its statutory responsibilities to protect and promote human rights. I would also like to thank my associates and the staff of the Commission for their help in preparing this report.

Nayan Bahadur Khatri
Chairman

SUMMARY

Background

Established formally on 26 May 2000 according to the Human Rights Commission Act 1997, the National Human Rights Commission has completed four years and is in its fifth year. The present makeup of the National Human Rights Commission is as below:

Mr. Nayan Bahadur Khatri	Chairman
Dr. Gauri Shankar Lal Das	Member
Mr. Sushil Pyakurel	Member
Mr. Kapil Shrestha	Member
Ms. Indira Rana	Member

Organizational Chart

The Commission has been restructured by improving and revising the existing organizational chart during the previous report period. This was done in response to increasing workload and with the aim of making it easy for the Commission to play an effective role in the work of protecting and promoting human rights in accordance with its strategic plan.

Meetings of the Commission

The Commission has held regular and emergency meetings. At these meetings, it has made decisions regarding monitoring and investigating the human rights situation. It has also decided on drawing the serious attention of the belligerent sides to the issue of human rights and supporting humanitarian laws.

Appointment of Staff

The process of hiring staff in order to establish regional offices as per the needs of the Responding to Crisis Project and the Regional Outreach Program launched by the Commission is at the final stage.

Handling Complaints

The Commission has made various decisions regarding human rights violations after investigating, analyzing and researching the complaints registered at its office. The Commission has received a total of 1,083 complaints during the report period. Most of them are related to violation of political and civil rights. Among these, the number of complaints stating that the trend of disappearances by the state amid the ongoing armed insurgency in the country

is increasing. There are also a rising number of complaints related to abduction by the Maoists of farmers, human rights workers, journalists, political party workers, teachers and students.

Investigation and Research

Exercising the authority vested in it by law, the Commission has continued the work of investigating and researching cases related to human rights violation. The Commission has examined more than 20 such instances during the report period.

Advocacy Programs

The Commission has carried out various advocacy programs with the aim of drawing the attention of the belligerent parties to include human rights as the main agenda in the process of peaceful resolution of conflict. As the Commission has determined that building a culture of human rights would be at the top of its strategic plan, it has conducted different advocacy programs accordingly.

Human Rights Training

The Commission believes that without extensive dissemination of knowledge about human rights, the effort to build a culture of human rights would not be effective. It also understands that without building the capacity of NGOs involved in the field, it would hinder work related to human rights. The Commission has thus imparted training to representatives of regional-level NGOs active in all the five development regions. Trainings were related to human rights monitoring and documentation, and procedures on complaint management. From this, the Commission expects to receive significant help from organizations involved in the human rights sector to fulfill its responsibility in protecting and promoting human rights.

Eighth Annual Meeting of Asia Pacific Forum Organized

The eighth annual meeting of the Asia Pacific Forum of National Human Rights Institutions was successfully held 14-16 February 2004 in Kathmandu. The performance of Nepal's National Human Rights Commission in organizing the event was highly praised. The meeting also elected the Commission, by virtue of being the organizer of the convention, to the chair of the Asia Pacific Forum.

Collaboration with International Organizations

The Commission has been working together with international organizations involved in the field of protecting and promoting human rights. As the eighth member of the Asia Pacific Forum, the Commission has been playing a major role in its activities. His Majesty's Government and the United Nations High Commissioner for Human Rights signed an agreement at the 59th session of the UN Commission on Human Rights under which the Commission would receive technical knowledge, skill and other assistance. The Commission expects that this would help it in working together with international agencies. Moreover, besides enhancing the Commission's capacity, it has also provided it international stature.

Relations between His Majesty's Government and Other Agencies

The Commission has observed, during interactions with officers of law enforcement agencies and while working in the field, that there are problems when enforcing human rights and humanitarian laws. In order to discuss these problems and find possible ways to solve them, it has held various programs with law enforcement officers in all the five development regions. The meetings have discussed the role that the Commission could play. The Commission has received valuable suggestions during these discussions, and has informed the senior officers of central-level law enforcement agencies about them. The Commission has also presented practical recommendations for protecting human rights and humanitarian laws. This has helped remove the doubts held by various agencies of His Majesty's Government regarding the Commission.

Institutional Development of the Commission

The Commission has received significant assistance from the capacity development project of the United Nations Development Program to expand its physical facilities. The improvements made include painting of the Commission's office building, construction of work stations, computer networking and installation of various equipment. In addition, consultancy and training by foreign experts, study tours and other activities have also helped institutional development of the Commission.

Joint Action against Girl and Child Trafficking

The National Human Rights Commission and the Indian National Human Rights Commission have an agreement to work together to combat girl and child trafficking. Accordingly, preparations are underway to establish a mechanism for cooperation between the two. The Commission has expected that this would make a great contribution in the effort to control girl and child trafficking.

Challenges and Difficulties

The Commission still has not received the expected support from His Majesty's Government for strengthening and capacity building. Nepal's image at the international level has taken a downturn as a result of the sharp increase in the number of killings, disappearances, kidnappings, torture and such other acts. Agencies of His Majesty's Government do not provide information on time for the Commission to act upon the complaints received at its office. The recommendations presented by the Commission are also not taken seriously. The Commission has not been able to deploy itself across the country because of limited means and resources. The work of protecting the human rights of the internally displaced persons has also been made even more difficult by the continuing fighting. Organizations involved in human rights and development work have not been able to travel to the rural areas because of the conflict. As a result, violation of Economic, Social and Cultural rights is increasing. The presence of the warring parties in schools, kidnapping of students, destruction of health posts, kidnapping of teachers, civil servants and ordinary people not involved in the conflicts have emerged as a serious challenge against the right to education, food and health. In such a situation, it has become a challenging task for the Commission to perform its duties in protecting human rights. Even then, bolstered by the trust of the Nepalese people, the Commission has been surmounting all kinds of problems and working to protect and promote human rights.

CHAPTER I

Introduction

I.1. Present Status of Human Rights in Nepal



I.1. Present Status of Human Rights in Nepal

As in the previous reports, there has not been any significant improvement in the human rights situation during the period covered by this report. Although there had been faint hopes for the ceasefire between His Majesty's Government and the Maoists, the failure of peace talks between the two parties has only led to further deterioration of the human rights situation in Nepal.

Many innocent people have lost their lives in the ongoing armed conflict and many more have become orphans, disabled and crippled. The number of people who have disappeared, abducted, tortured or harassed are also on the rise which has further deteriorated the image of Nepal in the international community. According to the reports of the Amnesty International, Nepal comes as one of the top countries with regards to the new-cases of disappearances. This reflects the weakening human rights condition in Nepal.

As in the previous year, many cases of abduction, torture and harassment were reported to the Commission. On the one hand, the Maoists are continuing their violence by killing those who they suspect are state informants, and whoever they believe are against their ideology of people's war; on the other hand, the state has also not abided by the law and the judicial procedures of the constitution, and has thus violated the human rights by continued killing, torturing and harassing of the innocent civilians. The lives of many innocent people have thus been seriously affected due to the continued violence involving the use of children as human shields, abduction, torture, extortion, confiscation of innocent people's property, closure of educational institutions and road blockades.

Although both the state and the Maoists have verbally made commitments to respect human rights and humanitarian law, none seem to have practiced it in reality. The investigation conducted by the Commission on Doramba incident, Nagi incident and Siraha incident that occurred during the period of ceasefire, clearly reflects the gross negligence of human rights situation in Nepal. The National Human Rights Commission of Nepal is taking various initiatives to make its role more effective in the process of peaceful resolution of the conflict. This includes the dialogues and discussions with the parties that are directly involved with the conflict, various interactions with the state, submission of the draft human rights accord to the parties of conflict, providing practical advice to His Majesty's Government in the implementation of the 25-point human rights commitment and in the recent times, making public the minimum steps that the state and the Maoist have to take to ensure their human rights commitments.

Due to the limited human and capital resources, the Commission has not been able to perform its job to the desired expectations. However, with the continued support and trust of both the national and international organizations, civil society and the Nepalese people, the Commission has established its identity within a very short period of its establishment. In order to regulate its work and make it more effective, the Commission has also formulated a Strategic Plan of Action 2004-2008 which has been implemented recently. Similarly, the Commission has also expanded its horizons by establishing two regional offices, one in each Eastern and Mid-Western region. Both are now in the final phase of their construction.

At the time when the entire nation had been petrified by the seven years of continuous armed Maoist rebellion, the recent ceasefire and peace process between the state and the Maoists had generated a sense of hope among the peace loving Nepalese citizens. However, after the derailment of peace talk and dialogues between the two parties, the Maoists have continued their arm struggle once again, thereby further escalating the violation of human rights situation in Nepal. Ever since its establishment, the Commission is firm on the view that with negotiation and dialogues, any kind of conflict can be resolved peacefully. Therefore, the talks should focus more on the lasting peace without which problems regarding poverty, social ratings and unequal resource distribution cannot be solved. Thousands of people have lost their lives in the seven years of conflict. More than fifty thousand people have lost their homes and fled from their ancestral land to become refugees in their own country. Furthermore, these people are subjected to sub-standard life under such circumstances. Thousands of women have been subjected to become widows and thousands of children have become orphans. Therefore, instead of just being a mere spectator of such atrocities and heinous crimes, the Commission is seeking ways to direct its human and capital resources to the creation of long-term trust between the two parties.

The Commission believes that the human rights should be the primary agenda for any kind of peace talk between the two parties. For this, it is crucial that there should be serious interaction between various groups and organizations like the government, political parties, civil society and the rebels themselves. However, the Commissions efforts have not resulted in measurable successes yet. The Commission is dedicated to bringing the rebels and His Majesty's Government into agreement regarding human rights. The Commission has also gone through the case studies of various countries where civil wars have previously taken place and their efforts and experiences to combat the problem by creating a pressure group from all sectors. Once the pressure group is formed, the civil rights, political rights, economical rights, social rights and cultural rights of the people in this country will be honored. Only then will this country find an amicable solution to poverty, illiteracy, racial abuses and discriminations which are in fact the root causes of this present crisis. The Commission is determined that only after this that any substantial development regarding human rights can be achieved.

It is very important for all sectors of our society to realize that if the present conflict transformation does not occur in peaceful ways, then violence in the form of murder, unlawful arrests, inhuman torture, disappearance and abduction will increase in future, thereby further degrading the human rights situation in Nepal. Everyone should be cautious that in future the rebels will not repeat their brutalities against innocent children, women and old people or those who are going to their homes on festivals or traveling by bus like they have done in the past. There should not be any recurrence of murder, abduction, mutilation and extortion in future. Human rights should be respected, obeyed, enshrined and implemented with utmost sincerity. There should not be any violation of human rights and people's right to live in any cases. It is very necessary and essential that there should be strong commitments regarding human rights from all sectors including the parties at dispute. The Commission is confident that if, and only if, the two parties could comply with human rights and humanitarian law, an environment of trust for further dialogue and negotiation will be created.



CHAPTER 2

The Commission

2.1. Establishment and Work Division

2.2. Structure of the Commission

2.3. Meetings of the Commission



2.1. Establishment of the Commission and Work Division

The National Human Rights Commission, authorized by law to protect and promote human rights, was established on 26 May 2000 as per the Human Rights Commission Act 1997. The Commission has completed four years and is in its fifth year. In line with Section 3 of the Human Rights Commission Act 1997, the Commission was established with the following office bearers:

Mr. Nayan Bahadur Khatri	Chairman
Dr. Gauri Shankar Lal Das	Member
Mr. Kapil Shrestha	Member*
Mr. Sushil Pyakurel	Member
Ms. Indira Rana	Member

The functions of the office bearers mentioned above and the Commission's new organizational chart have been approved. The work of the Commission's various divisions as shown in the organizational chart is progressing smoothly. As the role of the Commissioners is important for the smooth functioning of the Commission, their work has been divided as given below until another arrangement is made. They fulfil their responsibilities as per their respective job descriptions approved by the Commission and are also required to report to the Chairman periodically about developments related to their work.

Mr. Nayan Bahadur Khatri	- General Administration and International Affairs
Dr. Gauri Shankar Lal Das	- Planning, Internal Monitoring and Evaluation Division
Mr. Sushil Pyakurel	- Protection, Monitoring and Promotion Division
Ms. Indira Rana	- Legislative Assistance Division

2.2. Structure of the Commission

2.2.1. Shape of the Organization

Following the reinstatement of democracy in 1990, Nepal has declared its total commitment to protecting and promoting human rights. This pledge is reflected in the Human Rights Commission Act 1997, which has incorporated the human rights principles contained in international declarations in its definition of human rights. Believing that all-around development of Nepalese society would be possible only by accepting the international declarations related to human rights, the National Human Rights Commission was established with such a purpose in mind. The shape of the newly established Commission was decided after a series of discussions were held on how it should look like.

The Commission has put together its organizational structure by enlisting permanent and temporary employees, personnel attached to projects and staff on deputation from His Majesty's Government. The arrangement is reviewed periodically. A chart showing the present organizational structure adopted by the Commission is given in Annex 8.

*As Member Mr. Kapil Shrestha is currently facing action, he has not been given any responsibilities in accordance with the Commission's decision of 22 July 2002.

2.2.2. Appointment and Resignation

(a) Resignation

Dr. Renu Rajbhandari of the office of the Rapporteur on Trafficking in Women and Children of the Commission submitted her resignation on 1 September 2003 which was accepted effective the same day.

(b) Appointment

Mrs. Padma Mathema was appointed to the vacant post of National Rapporteur as per an agreement between the National Human Rights Commission and the Ministry of Women, Children and Social Welfare, HMG, to appoint a National Rapporteur to work in the field of women and child trafficking within the framework of the Commission.

In view of the possibility that incidences of human rights violations could increase further following the official declaration of a state of emergency and the armed conflict in the country, the Commission has conducted the Responding to Crisis Project with the aim of carrying out effective monitoring and evaluation even in these conditions. It is funded by the British, Danish and Norwegian Embassies.

The first phase of the Project has been completed according to the agreement made with the donor agencies, and the second phase is about to begin. As the Commission would require additional personnel to implement the project in a smooth and effective manner, a number of candidates have been hired on contract basis for the posts following written, oral and practical tests.

The Commission does not expect that it would be possible to find a solution to the increasing human rights violation through action at the central level only. Therefore, with a view to extending the reach of the people, it is relying on the establishment of an outreach program in selected districts in all the five development regions of Nepal (Outreach Program), which is funded by the European Commission. Pursuant to this project, the Commission has advertised for different posts and hired the successful candidates on contract basis to staff its offices at both the central and regional levels.

2.3. Meetings of the Commission

In addition to the regular practice of holding meetings every Tuesday, the Commission has held emergency meetings whenever it has found it necessary. During the fiscal year, the Commission met 32 times and discussed issues related to the protection and promotion of human rights besides other policy matters. Following these deliberations, the Commission has arrived at various decisions.



Activities and Progress

3.1. Administrative Functions

3.2. Activities on Planning, Monitoring and Evaluation

3.3. Legislative Assistance

3.4. Activities on Human Rights Promotion

3.5. Attention drawn by the NHRC through press releases

3.6. Activities on Protection of Human Rights



3.1. Administrative Functions

3.1.1. General Administration and Administrative Functions

The NHRC's policies are made in compliance with its goals and objectives to make it more capable and effective. It requires an effectively functioning organisation. Planned activities cannot materialise in the absence of an effective organisation. The organisation should be able to accommodate the ever-expanding goals and scope. Therefore, a decision has been made to extend the NHRC offices up to the regional levels. Likewise, no organisation can gather momentum, unless there is effective management and capable administration. Operation of administrative works has been matched with the newly approved organisational structure.

To house its administrative office, the NHRC has received the old building of the then Ministry of Supplies located at Harihar Bhawan from the His Majesty's Government. The reconstruction of the building has reached a final phase. In its attempt to make the office easily accessible and physically strong, the NHRC has entered into an agreement for estimated budget and supervision required for the office layout design, repairs and renovation for which the consent of the Department of City Development and Building Construction has been obtained.

The NHRC has already approved the office layout design. Electricity and wiring works, and the construction of toilet and stairs have been completed. This achievement in the NHRC's physical infrastructure is expected to help perform its administrative works.

Realising the need for capable human resources required for discharging the duties of protecting and promoting human rights guaranteed by the Human Rights Commission Act 1997, employee positions have been ascertained in line with the NHRC's workload. The NHRC's current workforce strength is 54 employees—hired both on permanent payroll and project bases. The Commission's duties include hearing and making decisions on the complaints of human rights violations, creating public awareness towards promoting the Commission and its works, and advising the government on the human rights issue. Its responsibilities also involve publishing the Commission's rights protection activities, and other rights awareness generating materials. Likewise, it also reviews whether the existing Nepalese laws are compliant with international laws, treaties and conventions, and provides counselling in this regard to the government. This much of the workload has rendered the Commission's existing staff positions inadequate, and created impediments to its smooth functioning. There is the need for immediately addressing the complaints that have spiralled in the recent years. It has evinced the need for reviewing the existing employee positions that should match with the Commission's swelling workload. It is also for career development of the Commission's human resources that a separate human resource development policy has been drafted and awaits implementation.

The Commission has also set up the Human Rights Documentation Centre with the cooperation of Danish Institute for Human Rights (DIHR) and other donor agencies. The DIHR has provided books on human right to the Centre that presently has books, reports, magazines, and bulletins relating to human rights. 'WINISIS', a software programme for making entries of all the books of the Centre, has been installed, and it has almost completed making the entire entries to the computer. However, budget crunch and lack of other resources have impeded the library management of the Commission.

The administrative division headed by the Chairman of the Commission has been looking after the daily administrative activities. The division is also responsible for financial administration works.

3.1.2. Financial Administration

To make the financial administration more effective and transparent, the Commission has formulated regulations and set other administrative arrangements. The government funds need to be expended as per the HMG's rules, and the donor agencies' grants as per their rules, but both the accounts are required to be audited by the Office of Auditor General. Since this contradiction has given rise to confusion in a number of instances, the Commission has introduced its own financial regulations. In view of its increasing workload, and thereby the obligations to meet expenses of salaries and allowances of officials and other employees, and other daily office overheads, the Commission also has felt the need for enlarging the existing budget of Rs. 7.5 million sanctioned by the government for the fiscal year 2060/61 B.S.

The Human Rights Commission Act 1997, Section 15 (5), has provided that the Commission's books of accounts be audited by the Department of Auditor General. Accordingly, the Department of Auditor General has already audited the accounts of general expenditures funded with the HMG, as well as those of foreign aids for the fiscal year 2059/60 B.S. The preliminary audit report, and the Commission's comments to the Department of Auditor General, as well as final accounts for the fiscal year 2060/61 B.S (Auditor General's Form No. 17) been included in the Annex 7. The Department of Auditor General is yet to complete the final audit of the books of accounts of fiscal year 2060/61 B.S.

A pressing need for essential equipment and vehicles has been felt, as the Commission is increasing the human rights protection and promotion activities. Annex 6 showcases the assets-in-kind existing with the Commission and its projects.

With the assistance of Capacity Development Project of the United Nations Development Program, an integrated financial administration regulation has been enforced in the Commission's projects.

At present, the financial administration unit keeps the accounting of financial transactions of the Commission, by maintaining books of accounts separately for the funds received from the HMG and from donor agencies. Likewise, a bank account has been maintained with Nepal Investment Bank Ltd. for the European Union funded project for establishing the Commission's regional office. The Commission's bank accounts are operated with joint signatures of the Commission secretary and account chief. The Office of Auditor General audits the Commission's books of accounts regularly after the end of each fiscal year.

The schedules detailing the financial administration are given in the Annex 7.

3.2. Activities on Planning, Monitoring and Evaluation

3.2.1. Formulation and Implementation of the Strategic Plan (2004-2008) of the Commission

To carry out the functions, fulfil duties and exercise the rights provided by the Human Rights Commission Act 1997, to discharge its works in a planned manner, and also to implement the programmes geared towards promoting the human rights culture in the country, the Commission has finalised its Strategic Plan (2003-2008) on 25 November 2003.

Adopting a participatory approach, the Strategic Plan has been formulated on the basis of suggestions and opinions received from the people of diverse walks of life. They include not only the Commission's officials and employees, but also those of the government agencies, other human rights commissions, human rights related NGOs, judiciary, mass media, political parties, UN agencies, and donor agencies of the NHRC projects, as well as intellectuals, intelligentsia, and foreign diplomats. The mission of this Strategic Plan is :

“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 Plan has been developed the strategic programmes by identifying certain critical issues of human rights, such as, the existing conflict, impediments to exercise the basic rights of the Constitution and other laws of the country, gender and caste based discrimination, as well as sexual harassment and molestation. Other key issues include the issue of torture meted out in the pretext of witchcraft (*Boksi*), violence against children and women, child labour, obstacles in exercising the citizens' ESC Rights, problems relating to human rights education and awareness, and state of impunity. The Plan's main strategic objectives are :

- ❑ 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.
- ❑ To promote, monitor and enforce the guarantee of fundamental rights of the people with focus on the right to life, liberty, justice and equality.
- ❑ 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.
- ❑ 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.
- ❑ 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.
- ❑ To improve the extent to which international treaties and conventions on human rights are ratified, domesticated and implemented in Nepal.

- To promote, develop and provide education, information and advice about human rights.
- To transform the image of the organisation by increasing its efficiencies (managerial and technical) and acceptance across all sections of Nepalese society.

The principles of equality, impartiality, accessibility, accountability, transparency, independency and autonomy have been incorporated in the Commission's Strategic Plan as core values. The programmes required for successfully translating the Strategic Plan into action are also in the process of implementation. This is expected to contribute to the enhancement of the Commission's capability to protect and promote human rights, as the Plan and its programmes serve as the basis for future activities in accordance with the Commission's Act.

The information on the strategic objectives and programmes of the Strategic Plan of the Commission may also be found at its website: www.nhrc-nepal.org

3.2.2. Participation with National Human Rights Action Plan

The Commission has been making significant contributions to the National Human Rights Action Plan being executed by His Majesty's Government under the co-operation of UNDP. Commissioner Dr. Gouri Shankar Lal Das has represented the Commission in this Action Plan Advisory Committee. Similarly, the Commission has also made important contribution of ideas and suggestions to the regular meetings.

The government has spelt out the human rights goal of the Tenth Plan so that the human rights promotion activities shall comply with Nepal's commitments expressed in different international conventions, and the Constitution of the Kingdom of Nepal, and shall be integrated with the national development works.

With the government implementing the National Human Rights Action Plan, the responsibility of monitoring the implementation has been entrusted with the Commission.

3.2.3. Preparation of Monitoring and Investigation Directive

To ensure uniformity not only in human rights monitoring and investigation activities to be executed for at central, regional and district levels, but also in imparting human rights training in other organisations in regard to monitoring and research on rights violation, the Commission has developed its monitoring and investigation directive which has reached the final stage. This is expected to make an important contribution in effectively accomplishing the monitoring and investigation activities in relation to human rights violation and abuse. Efforts will be made to make sure that the Directive contain all the aspects covered by the Commission's Action Plan, and issues relating to socio-cultural and economic rights.

3.3. Legislative Assistance

3.3.1. Revision of Human Rights Act, 1997

It has been observed that there is a need for revising a number of the provisions of the Human Rights Act, 1997 so as to put them in conformity with the Commission's activities

and in congerence with the operating systems of such human rights commissions in other countries of the world. Hence, the Commission has constituted a Task Force under the coordination of its Chairperson Nayan Bahadur Khatri for revising the Human Rights Act 1997. The Task Force also has representatives from the Law Reforms Commission, Ministry of Law, Human Rights and Social Forum, and advocate Badri Bahadur Karki as its members.

3.3.2. On the Conventions

1. Training on Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The second phase of training workshop on the concept, standard of treaty, implementation aspects and periodical reports of “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984” was organised from 30 July - 5 August 2003 under the joint auspices of the Commission and Danish Institute for Human Rights (DIHR). The workshop was organised for the government officers, NGO representatives and the Commission’s employees. The training has aimed at assisting the government officers and harmonising the shadow reports of the NGOs with international standards, as Nepal was yet to submit the second, third and fourth reports, which were supposed to be submitted by 1996 and 2000 respectively. It was as per the requirement of the Section 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, to which Nepal became a party on 14 May 1991. It is worth recalling that Nepal had already submitted the first or preliminary report on 16 December 1993.

The training workshop has been expected to be fruitful in initiating the periodical report writing through coordination with other line ministries by the committee located at the Home Ministry, the liaison ministry for the Convention. In this regard, the Commission has provided technical and other cooperation to the committee.

Earlier on 24 - 28 March 2003, a training workshop was organised for the government officers, and NGO representatives as well as the Commission’s employees.

2. Training on International Convention (Covenant) on Civil and Political Rights

An interaction programme was organised on 30 October 2003 in connection with preparing and submitting the HMG’s preliminary report on Civil and Political Rights as per the international standards. This was essential as Nepal is a party to the International Covenant on Civil and Political Rights, 1966 (ICCPR), and to the optional protocols of the Convention on 14 May 1991 and 4 March 1998 respectively. With the consent of the Home Ministry, the meeting also agreed that the Commission would exchange requisite information and technical cooperation with the Committee that shall comprise of representatives of all line ministries. As per the agreement, the Commission shall continue providing training programmes.

A training workshop on the concept, standard of treaty, implementation aspects and periodical reports of the ICCPR was organised from 13 - 17 December 2004 under the joint auspices of the NHRC and the Danish Institute for Human Rights (DIHR). The workshop was organised for the concerned government officers, NGO representatives and the

Commission's employees to prepare the report. The training has aimed at assisting the government officers and harmonising the shadow reports of the NGOs with international standards. Pursuant to the programme, the Home Ministry had forwarded a draft report to the Commission for the latter's perusal and comments.

3.3.3. Commission's Opinions on the Periodical Report

I. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

In accordance with the Section 9(3) of the Human Rights Commission Act 1997, has forwarded its opinion on the periodical draft report on Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 back to the Home Ministry, after having decided to do so at the Commission's meeting held on 23 January 2004. The opinions encompassed the positive points of the report as well as the points to be reformed both Section-wise and in the entirety.

Initiatives taken on sending the report after a long duration, mentioning the role played by the NHRC in protection and promotion of the reports in part-wise or categorical structure following specified report format in large extent, accepting there are weaknesses in the Punishment and Compensation Act 1997, etc. are the progressive positive points of the reports.

The Commission's other suggestions are as follows:

- ❑ The initiative taken towards implementing the concluding observations and comments presented by the Committee on the Convention of Torture in the preliminary report that Nepal had submitted in 1994 should be mentioned.
- ❑ Regarding the incidents of torture, the report should mention the nature of action taken against those who have perpetrated torture. It should also state the relief, compensation and rehabilitation facilities provided to the victims of torture.
- ❑ It should mention the particulars concerning the torture and other cruel, inhuman or degrading treatment or punishment enshrined in the Section 16 of the Convention. For instance, it should better state the laws and incidents relating to torture and other cruel, inhuman or degrading treatment or punishment, as well as relief, compensation and rehabilitation efforts of the government and others.
- ❑ It should mention the implementation of the recommendations of the Commission. The Commission has referred to the specific cases of Rabindra Silwal and Nepalgunj Jail in which the Commission had made the decision on the reported torture, inhuman treatment, and shooting. The implementation of the Commission decision in favour of the victims should be mentioned in the report.
- ❑ It should mention the activities of various human rights cells constituted by the HMG towards protecting the torture and inhuman treatments.
- ❑ The measures taken for regular review of the interrogation rules and arrangement for custody should also be mentioned.

The Commission has presented its suggestions even by collecting the opinions of NGO's involved in the field of human rights.

2. The Commission's Opinions on the draft report concerning the civil and political rights

In accordance with Section 9 (3) of the Human Rights Commission Act 1997, the Commission has forwarded the periodical draft report on the Covenant on the Civil and Political Rights by attaching its opinions to it back to the Home Ministry. It was so acted upon as per the Commission's decision dated 31 March 2004. The opinions covered not only the positive points of the report, but also the suggestions for collective and individual part-wise reforms.

Initiatives taken on sending reports after a long duration mentioning the role played by NHRC in protection and promotion of human rights, writing reports in part-wise or categorical structure following specified report format in large extent, including executive summary and conclusion in reports are the progressive positive points of the report.

Likewise, following are the main suggestions the Commission has provided to improve the draft report :

- ❑ The initiative taken towards implementing the concluding observations and comments presented by the concerned committee in the preliminary report that Nepal had submitted earlier should be mentioned. The situation regarding the implementation of the Commission's recommendations should also be stated.
- ❑ It should also state the efforts made towards evaluating the impact of the Terrorist and Destructive Activities (Control and Punishment) Act.
- ❑ It should state the rules relating to the use of weapons by police and other security forces. It should also mention whether the rules have been abided by, or not; and whether the non-abidance has taken anybody's life. Besides, it should also state whether investigation into the perpetrators has been done or not.
- ❑ It should mention the remedies against the prevention of the incidents in which the state conceals the whereabouts of those in custody. It should also state the inquiries or probe, if any, made into the complaints of such inhuman activities.
- ❑ It is desirable to mention the measures to control the child mortality rate, malnutrition, and spread of epidemics, and to conserve environment. These constitute the rights to life.
- ❑ There should be a mention of how the court orders have been enforced.
- ❑ It is desirable to mention the initiative towards discounting those convicted of abortion, as convicts are by rule allowed to benefit from change in law after their crime.
- ❑ It should cover the information on the incidents in which strikes were banned by citing the Essential Services Act.
- ❑ It should also state the incidents in which people were banned from peaceful assembly, and from observing public functions during the report period.
- ❑ It should also mention the laws and organisational structure of trade unions in Nepal.

The Commission has presented its suggestions even by collecting the opinions of NGO's involved in the field of human rights.

3. The Commission's Opinions on National Action Plans of the HMG

i) National Action Plan on Gender Equity and Women Empowerment

In case of the National Action Plan on Gender Equity and Women Empowerment forwarded by the Ministry of Women, Children and Social Welfare, the Commission submitted its opinions to the ministry as per its decision dated 10 September 2003. The Action Plan contains twelve topics such as women and poverty, women education and training, women and health, women and economy, power structure and women in policy making, institutional structure of women development, women and human rights, women and communications, women and environment, and children.

The Commission's opinions included the suggestions for the programme schedule, and for designating a body for monitoring, measurement and evaluation of the programme. It also suggested that the office responsible (under the line Ministry) for implementation, should be ascertained, and so the agency for coordinating the ministries.

The major suggestions of the Commission are as follows:

- ❑ Provide loans without collateral for poor women, and introduce income generating programmes for women from former Kamaiya and Badi communities.
- ❑ Make arrangement for the education of disabled (differently able) girl students by providing physical and human resources.
- ❑ Introduce programmes to formulate laws required for controlling incidents of witchcraft and other violence.
- ❑ Implement programmes to address problems of women who have lost their husbands in the armed insurgency.
- ❑ Launch plans to amend the Muluki Ain (the National Code) and other laws for providing full-fledged rights to property.
- ❑ Initiate programmes to help women take up foreign jobs, and facilitate in providing collateral-free loans, language tutorials and other training programmes.
- ❑ Launch programmes to consult with the concerned parties for legislating the provisions to increase the women participation qualitatively and quantitatively in the internal composition of Parliament and political parties.
- ❑ Press the programme to ratify the voluntary clause of the Convention concerning elimination of all forms of discriminations against women.
- ❑ Introduce sensitisation programmes for parliamentarians to frame the laws relating to the existing discriminatory law reforms and substantial equality.
- ❑ Launch socialisation programmes for those women trafficked in the past.
- ❑ Introduce programmes of disseminating true stories of women and their rights in the mass media. Also launch programmes for rehabilitating the street children.

ii) National Action Plan on Elderly Citizens

The Commission expressed its opinions on the draft of the National Action Plan on Elderly Citizens received from the Ministry of Women, Children, and Social Welfare. The Commission forwarded them back to the Ministry as per its decision of 22 October 2003.

The main suggestions forwarded by the Commission on the Action Plan are as follows:

- ❑ The subjective details should be complied with the UN Principle and International Plan of Action.
- ❑ Gender disaggregated data of elderly citizens should be well kept.
- ❑ Effective monitoring of the facilities provided to the elderly citizens, such as, old age home, special wards in hospital, day care centre, and health club.
- ❑ There should be gender equality and rural-urban balance in all the programmes directed at the elderly citizens.
- ❑ Skill development programmes that enable the senior citizens to engage in the income generating activities while staying at home.
- ❑ Home nursing and mobile clinic services should be conducted.
- ❑ The budget allocated by the government for destitute and needy people in the government hospitals should also be used for elderly citizens, and its monitoring should also be effective.
- ❑ There should be a policy to involve those senior citizens who are willing to volunteer.
- ❑ The education of psycho-geriatrics and geriatrics nursing should be promoted by incorporating them into the syllabus of higher education.
- ❑ Senior citizens should be allowed to participate in the international level exchange programmes as guest lectures, and in the national 'know-the-country' programmes.
- ❑ Provisions should be made to increase the access of elderly people to museums, theatre, cinema, and public transportation. There should be a separate queue and other facility for elderly citizens in the religious sites and vehicles.
- ❑ The law should be amended in such way that the elderly citizens crossing a particular age limit are not imprisoned.
- ❑ There should be legislation to control the domestic and social violence against elderly women.
- ❑ The success stories of famous elderly people should be disseminated through the media, and there should be programmes to felicitate them.
- ❑ Programmes to generate and enhance the awareness of elderly people's rights should be organised.
- ❑ Senior citizen related programmes should integrate social service and health service.
- ❑ Prevention measures should be taken for senior citizens' road safety.
- ❑ Home service should be provided to the incapable senior citizens for the payment of tax and other charges as well for banking.

3.3.4. Suggestions for Prison Reform

Section 9, subsection 2 (e) of the Human Rights Commission Act 1997, has provided for the Commission's duties and responsibilities, as per which the Commission can inspect the government bodies, jail and other agencies, and contribute its suggestions on improving these bodies' activities and physical facilities.

Hence, the Commission's officials and employees have been carrying out regular inspection visits to jails and apprised the HMG of the measures to improve the situation in jail. The Commission's Action Plan concerning Jail Reforms is in line with the Commission's Strategic Plan, 2004-2008. The Action Plan shall include the current situation of various jails, and initiative taken by various NGOs and inmates to request the concerned authorities for improving the jails.

3.4. Activities on Human Rights Promotion

The Human Rights Commission Act, 1997, has assigned the responsibility of human rights protection and promotion to the National Human Rights Commission. Protection and promotion of human rights plays a vital and significant role in fostering the human rights' culture in a country like Nepal where illiteracy, ignorance, and blind faith are widespread and there is majority of backward communities.

3.4.1. Publications

With a view to developing human rights culture by promoting human rights education, the Commission has brought out the following publications that encompass a wide range of subjects and areas:

1. Human Rights in Nepal: A Status Report, 2003 (English & Nepali version)
2. Conflict, Human Rights and Peace: Challenges Before Nepal (English)
3. Reports on Integration of Dalit Rights Promotion Programme (English)
4. FAQ on Human Rights for childrens
5. Human Rights Recommendations submitted to the HMG and CPN (Maoists)
6. Human Rights Bulletin,
7. National Human Rights Commission, Strategic Plan (2004-2008)
8. Posters on Dalit Awareness
9. Calendar 2061
10. Booklets on Rights of the Children, Women and Dalit
11. National Human Rights Commission: Achievements in Four Years

The human rights publications numbered eleven as well as their dissemination and distribution during the reported period are expected to contribute to the promotion of the human rights education and awareness.

3.4.2. Day and Ceremonies

In connection with the promotion of human rights, the Commission has been organising different programmes on the days concerned with human rights. Likewise, it has been participating in different programmes organised by human rights organizations.

During the reported period, the Commission organized different functions including Eighth Annual Meeting of Asia Pacific Forum of National Human Rights Insitutions, International Human Rights Day and many other functions.

3.4.3. 55th Human Rights Day

On the occasion of the 55th Human Rights Day on 10 December 2003, the Commission organised different programmes with the theme or slogan of "Let Us Respect Human Rights, Let Us Stop Abductions" in Kathmandu and other parts of the Kingdom.

At a function organised in Kathmandu, Chairman of the Commission Nayan Bahadur Khatri expressed his deep concern over the fact that the country had



not been able to institutionalise the values and norms of human rights, even 55 years after the universal declaration of the human rights.

Expressing his concern about the accelerating trend of abducting and illegally incommunicado detention on part of the state and rebels, Khatri stressed that the incidents of extra-judicial detention, torture, rape, murder, looting and destruction of physical infrastructures cannot be decelerated until and unless stern action is not taken against those violating the human rights.

At a time when even the international community's attention has been drawn towards the deteriorating situation of human rights in Nepal, and frequent appeals to the warring parties to recognize the human rights and humanitarian laws, Khatri emphasised the need for pushing ahead with the peace process by internalising the universal norms and values of human rights to improve Nepal's tarnished image in the human rights sector.

Matthew Kahane UNDP, Resident Representative said that violating of human rights—no matter who has done so— will hurt the individual belief and dignity of the victims. He also extended his wishes to the Human Rights Commission, HMG, NGOs and civil society for their efforts for the protection and promotion of human rights in Nepal. He also pledged UNDP's continued cooperation to the initiation. He called on both the warring parties for signing the Human Rights Accord prepared by the Commission.

At the function, the Commission's annual report in Nepali, English and Maithili languages was made public. The then Prime Minister Surya Bahadur Thapa, the then Chief Justice Kedar Nath Upadhyay, and high ranking officials of the government and security agencies, as well as NGO representatives and intellectuals were present in the programme.

Also on the occasion of the World Human Rights Day, interaction programmes were organised in the places outside the Valley, like Dhankuta, Charikot, Birgunj, Birendranagar, and Mahendranagar, to oppose incidents of abduction. Earlier, rallies were organised in various parts of the towns in which representatives of the NGOs, senior officers of district level security agencies, intellectuals, journalists, teachers and students as well as the Commission's employees had participated. All participants called for making public the condition of those abducted and disappearances by the state and to stop all such inhuman acts.

On this occasion, a poetry competition on human rights education was held in Kavre district in which students of classes 8, 9 and 10 of different schools of the district participated. In the competition, the participants securing the top three positions as well as two other participants were awarded Rs. 2000, Rs. 1500, Rs. 1000 and Rs. 500 as consolation prize respectively along with certificates.

3.4.4. United Nations Day against Torture

In order to mark the UN Day against Torture, an interaction programme was organised on 26 June 2004 on the theme of 'NHRC and the Issue Raised by torture and impunity.' The function was participated in by human rights NGOs, officials from government and security agencies, political party representatives, legal professionals, and intelligentsia. At the function,

the Commissioner Sushil Pyakurel said that even though Nepal has ratified many human rights conventions, there has been a steady rise in the incidents of torture. Referring to a study, he said that the rate of torture this year has increased by 300 per cent for which the present state of impunity was to blame. He added that at this difficult juncture of rising torture incidents, there must be commitment to human rights principles from the government, human rights NGOs, political party representatives, and entire civil society. He appealed the government to be more sensitive for discouraging the incidents of torture on part of the warring parties, and for awarding punishment to the torturers.

At the function, President of International Rehabilitation Council and Centre for Victims of Torture (Yatna Pidit Sarokar Kendra) Dr. Bhogendra Sharma said that due to flaws in the existing law, the victims have not been able to receive adequate remedies and the torturers have gone scot-free from punishment. This has alarmingly accelerated the incidents of torture. He called for firm commitment from both the government and rebels to the resolution of the problem.

Likewise, central committee member of Nepali Congress (Democratic) Basant Gurung, former deputy prime minister and Nepali Congress central committee member Ramchandra Paudel and central member of Nepal Sadbhavana Party Mukti Mandal said that the political parties were also required to be committed to the protection of human rights, and control of torture. Torture victim Khul Bahadur Kunwar told the programme his story about the extreme, inhuman torture meted out to him in the police custody. At the programme, a working paper on behalf of the Centre for Victims of Torture (Yatna Pidit Sarokar Kendra) was also presented.

3.4.5. Fourth Anniversary of the National Human Rights Commission

The Commission organised various programmes to mark a weeklong celebration of its fourth anniversary from 30 May - 5 June 2004. In the initiative of the staff members of the Commission, a blood donation programme was organised on 30 May 2004. In the programme organised for the welfare of the conflict victims, representatives from different NGOs and human rights volunteers donated their blood. Highlighting the importance of blood donation, Commissioner Dr. Gouri Shankar Lal Das and Sushil Pyakurel lauded the human rights activists' endeavour directed towards the welfare of the victims of conflict.

At the function, certificates were distributed to the blood donors, as well as to those Commission's staff members and volunteers who had participated in monitoring works. The Commission also made it public that it would analyse the data and information collected from the monitoring, and issue directives to the concerned bodies about their actions.

Addressing the concluding function of the fourth anniversary organised on 5 June 2004, Prime Minister Sher Bahadur Deuba said that the government was fully committed to the protection and promotion of human rights. The dignity of entire institution should not be doubted for the violation committed by an individual, he added. Premier Deuba also assured the Commission of availing requisite resources from the government. On the same occasion, the Commission's Chairman Nayan Bahadur Khatri, highlighted on the activities undertaken by the Commission and pointed out the myriad



of challenges before it, in the context of present conflict. He also expressed the hope that the fundamental recommendations/minimum human rights conditions forwarded by the Commission to His Majesty's Government and CPN-Maoists should serve as an important document that would contribute to the protection and promotion of human rights, through the abidance of human rights and humanitarian laws. In regard to the 1100-plus complaints about abduction and forced 'disappearances' lodged at the Commission, Khatri expressed concern that the government had not shown adequate interest in making public the whereabouts those abducted or 'disappeared'. Chairman Khatri also said that the Commission had formulated 5-year strategic plan, and was firm to its implementation.

Resident Representative of the UNDP Matthew Kahane expressed the hope that HMG and the UN High Commission for Human Rights would sign the Memorandum of Understanding (MoU) on human rights very soon. He also assured the HMG, the Commission (NHRC), civil society and human rights organisations of the continued support from the United Nations for human rights protection and promotion.

The Commission's various publications were also made public at the function. Chief Justice Govinda Bahadur Shrestha, and Speaker Taranath Ranabhat as well as heads of diplomatic missions, representatives of donor agencies, intellectuals, journalists, and officials and staff members of the Commission were present in the programme. Also to mark the anniversary, a regional workshop on human rights was organised in Pokhara from 9 - 11 June 2004.

3.4.6. Training/Seminar

With a view to creating public awareness through human rights education, the Commission has organised several training programmes and seminars during the reported year. As the Human Rights Commission Act 1997 has entrusted the Commission with the responsibility for organising trainings, seminars and workshops for the promotion of human rights, the Commission— despite its shoe-string resources— has organised such programmes aiming at various classes and communities in the society.

1. Medico-Legal Investigation Training

The Commission organised a one-day training programme for its staff, to address the problems relating to investigation of rights violation, on 27 May 2004 in Kathmandu. In the programme, Dr. Harihar Wasti spoke on Medico-legal Investigation, while Dr. Pramod Shrestha dealt with methods for investigating crimes like torture and rape.

2. Training on Human Rights Monitoring and Report Writing

The Commission organised a 5-day long training programme from 3 to 7 May 2004, to equip the participants with the professional skills of interviewing the concerned authorities and individuals on human rights monitoring and report writing. The programme discussed on a wide range of topics including procedure of receiving complaints, observing confidentiality, consistent report writing, and submitting concrete suggestions to the concerned authorities.

3. Regional Seminar on Human Rights Monitoring

The Commission organised an interaction programme on the present situation of human rights, in Pokhara of the Western Development Region on 17 May 2004.

Participating in programme, representatives of human rights NGOs and civil society emphasised the need for more effective role of the Commission in checking the incidents of abduction and forceful disappearances being intensified by the government and Maoist rebels. The Commission informed that it had strongly condemned the abduction of students and teachers as being a highly sensitive issue. It also added that it had exerted continuous pressure on the government and maoists to abide by the minimum steps forwarded to both of the warring parties.

4. Regional Training on Human Rights Monitoring

A three-day training programme on human rights monitoring was held from 13-15 June 2004 in Pokhara. Representatives of human rights NGOs, advocates, and journalists took part in the programme. Surya Bahadur Deuja and Madhav Prasad Gautam of the Commission provided coaching on the basic principles of human rights monitoring in the programme held in cooperation with the Capacity Development Project.

5. Regional Level Orientation Programme for Law Enforcing Bodies

A two-day orientation programme was held 12-13 June 2004 in Pokhara to acquaint officers of the law enforcing agencies like Royal Nepalese Army (RNA), Civil Police, District Administration Office, and regional administrative bodies with human rights principles and international humanitarian laws. Regional administrators, chiefs of RNA, chief district officers (CDOs), and senior officers of security agencies actively participated in the programme and shared their experiences with the Commission. NHRC Commissioner Sushil Pyakurel, former Supreme Court justice Laxman Prasad Aryal, and acting secretary of the Commission Kedar Prasad Paudyal shed light on the protection of human rights.

6. Workshop on Trafficking on Girls, Women and Children

At the present context where there is no clear definition of trafficking on women and children, the office of the National Rapporteur organized a workshop on 16 June 2004 to come up with a clear definition of human trafficking through the discussions with the government and non-governmental organizations. In the workshop, Durga Ghimire of ABC Nepal, Gauri Pradhan of CWIN (Child Workers in Nepal Concern Centre), and Bindu Gautam of Plan Nepal presented their respective working papers on human trafficking. Joint secretary of the Ministry of Women, Children and Social Welfare Shyam Sunder Sharma had participated in the workshop.

7. Workshop training for Human Rights Monitors

With its initiative making headway to establish its regional offices, the Commission required more workforce for which it organised a three-day workshop on basic human rights for the candidates successful in the written tests in Kathmandu. The workshop aimed at acquainting the candidates with the real life problems encountered in course of monitoring incidents of human rights violation, and at equipping them with basic ways to respond to the hardship. In the programme inaugurated by Commissioner



Dr. Gouri Shankar Lal Das, Acting Secretary Kedar Prasad Paudyal highlighted the effectiveness of the workshop. At the concluding function, Commission advisor Dr. Bipin Adhikari presented certificates to the participants.

8. Human Rights Monitoring Training for NGO representatives in Kanchanpur

A three-day Human Rights Monitoring Training for representatives of Kanchanpur based NGOs was organised on 27-29 June 2004 in the district under the chairmanship of Honourable Commissioner Dr. Gouri Shankar Lal Das. Former justice of the Supreme Court, chief district officer, vice president of the Federation of Nepalese Journalists, vice president of Nepal Bar Association also attended the programme. A wide range of topics including the scope, jurisdiction, duties and activities of the National Human Rights Commission, as well as national and international human rights principles, and historical background of human rights were discussed in the programme. It also covered the responsibilities of the state towards protection and promotion of human rights. A similar training programme had also been organised on 19-20 June 2004 in Hetauda of Makwanpur district.

9. Human Rights Monitoring Training in Biratnagar

Under the chairmanship of Commissioner Sushil Pyakurel, a two-day human rights monitoring and documentation training programme has held on 29-30 January 2004 in Biratnagar, the major town in the Eastern Development Region. Human rights organisations, Nepal Bar Association, Federation of Nepalese Journalists, as well human rights advocacy activists attended the programme. The training aimed basically at enhancing capacity of the local level manpower and organisations in monitoring, analysing and documenting the incidents of human rights violation. The team of resource persons of the training programme included Shankar Nath Adhikari and Hari Phuyal of the Commission, and an ICRC (International Red Cross Committee) representative.

10. Seminar on the Torture against women over Witchcraft charges

A one-day seminar on the legal provisions relating to the torture meted out against women on the charge of witchery, and its remedies was organised on 7 August 2003.

3.4.7. Discussions and Interactions

In order to accomplish its obligation towards the protection and promotion of human rights as per the Human Rights Commission Act 1997, the Commission has been organising discussion/interaction programmes with various persons at different times.



a. Interaction on girls trafficking with the Stakeholders

An interaction programme was organised on 24 July 2003 to establish coordination between the organisations rehabilitating the trafficked girls and women and monitor their works effectively on part of the office of the National Rapporteur. Speaking, Commission chairman Nayan Bahadur Khatri emphasized the need for the commitment of all to implement the outcome of the interaction. In the programme, Commissioner Dr. Gouri Shankar Lal Das and National Rapporteur Dr. Renu Rajbhandari informed that a hotline would be set up as the counselling centre at the National Rapporteur Office. At the function, the authority of formulating the policy on rehabilitation on part of the National Rapporteur Office in cooperation with the NGOs was also delegated.

b. Commission's Interaction with the Diplomatic Missions

On 20 August 2003, the Commission interacted with the representatives of various diplomatic missions and communities on the role of monitoring human rights in the present context. In the programme, NHRC Chairman Nayan Bahadur Khatri apprised the participants of the monitoring activities that the Commission carried on in different districts. There was also a dinner reception hosted to bid farewell to the then outgoing UNDP Resident Representative Dr. Henning Karcher. In addition to the Commission officials, heads of different diplomatic missions and dignitaries participated in the programme.

3.4.8. School Level Human Rights Education Programme

The National Human Rights Commission organized human rights education programmes in the districts of Kanchanpur, Surkhet, Dolakha, Parsa, Dhankuta, Baglung, Nawalparasi, Palpa and Saptari with the objective of informing and making the children more aware about their human rights and children's rights as provided for in the national and international laws. In the present context where the schools, students and teachers are being directly affected by the conflict in the country, question and answer and sessions discussion programmes were held on matters as to what the parties involved in the conflict should do and how the students should remain alert towards upholding human rights principles.

3.5. Attention drawn by the NHRC through press releases.

1. (5 September 2003), coordinators of the investigation committee formed by the Commission submitted their reports regarding the violent incidents in Siraha, Panchthar and Doramba of Ramechhap during the ceasefire. Those submitting reports were Gyanendra Bahadur Shrestha for Panchthar, Krishna Jung Rayamajhi for Ramechhap and Udaya Raj Upadhyaya for Siraha.
2. (19 November 2003), the NHRC apprised about its decisions made by its meeting on 18 November 2003 about the disappearance of Krishna KC; the series of violent incidents perpetrated by the Maoists at Sharada Higher Secondary School in Mudabhara of Doti district ; invitation of the task force and special facilitator on Missing and Torture of the United Nations and observance of the 55th Human Rights Day.
3. (26 December 2003), the NHRC informed that it was sending a team, including NHRC commissioners to investigate and monitor on the incident at Chisapani VDC of Khotang and the closing of schools in Mugu district.

4. (2 March 2004), the Commission asked the CPN-Maoists not to repeat activities such as forcing school children to participate in their activities, pressurizing teachers to teach their *Janbadi* Education (people's education) and conducting militia activities in school premises, and asked them to desist anything that infringes the right of the children to education and that affects their security.
5. (10 April 2004), a team of NHRC, including its commissioners Dr. Gouri Shankar Lal Das and Sushil Pyakurel, made on-the-site inspection of the places where those arrested by police during the peaceful demonstration of the political parties were kept and apprised His Majesty's Government about to follow the principles of human rights.
6. (12 April 2004), the CPN-Maoists were called to apply humanitarian law into practice and to honorably release the 42 policemen, including an assistant inspector they had kidnapped after attacking the Area Police Office in Pashupatinagar of Ilam district.
7. (19 April 2004), in the context of the arrests and ill-treatment rendered to the media people by the security forces while collecting news of the agitation of different political parties, the National Human Rights Commission called on His Majesty's Government to respect the rights of the media to collect news and to ensure their safety.
8. (21 April 2004), the NHRC discussed with different organizations working in the field of human rights to monitor the practical implementation of the announcement made, on behalf of His Majesty's Government, by the then Prime Minister Surya Bahadur Thapa on 26 March 2004, to protect 'human rights and international humanitarian law'

Details on the above mentioned subject matter are included in Annex 4.

3.6. Activities on Protection of Human Rights

3.6.1. Important Decisions Taken by the Commission for the Protection of Human Rights

1. (24 July 2003), The Commission has been giving continuity to the task of monitoring human rights as per the mandate granted it by law. At present, there is a cease fire in the country, and a process for talks between the government and the Maoists has been established. There has even been an agreement between the two sides on a code of conduct to be maintained during the cease-fire. Since matters relating to human rights have been mentioned in the code of conduct, the task of monitoring whether these provisions have been observed becomes the routine work of the Commission. In the current context, if on the one hand talks have not been able to proceed due to differences between the two sides, and on the other hand, there have been complaints of human rights violations by both the sides at the Commission. As a result, the monitoring of human rights has become a challenging task. Against this background, the Commission has been emphasising on the need for a separate human rights accord with human rights monitoring mechanisms. Having prepared such a draft, it has sent it to both the sides. And during meetings with the Commission, they both have expressed their commitment to human rights. Against this background, since seriousness on both the sides about human rights and positive cooperation from them would make the monitoring work of the Commission easy, it was decided to work towards creating such an environment.

2. (24 July 2003), Following questions of human rights raised in the different media while reporting about the rehabilitation of the Kamaiyas, a decision was taken to send Commissioner Dr. Gouri Shankar Lal Das to the site to monitor the situation.
3. (29 July 2003), To a letter written - after a long interval following the second round of talks - by His Majesty's Government on 12 July 2003 to push for the third round, the Maoists had send their reply on 23 July 2003. HMG sent another letter on 24 July 2004, which the Maoists answered back on 27 July 2003 with a request to furnish replies within five days. These exchange of letters instead of fixing a date for the third round of talks and building an environment of confidence have only widened the gulf between the two. The Commission is greatly distressed since the inability to hold talks would have unimaginable consequences. Even though the situation is grave, it was decided to call upon both sides to declare a cease-fire, have them sign and make a commitment to the code of conduct. Besides they would be asked not to limit themselves to an exchange of letters but to rethink their respective stances and sit down for talks for the sake of the nation's welfare. The Commission decided to immediately carry out the following to initiate without delay the task of monitoring the provision related to human rights in the code of conduct.
 - a. The Commission will make efforts to seek the understanding of both the sides to the monitoring bases and processes that have been sent to HMG and the Maoists.
 - b. The Commission will forward the process of holding discussions with senior leaders of the political parties, heads of diplomatic missions and civil society on the monitoring activities to be carried out by the Commission.
 - c. An advisory committee comprising those concerned with human rights and prominent people from the civil society will be formed.
 - d. An inspection of the situation of human rights as provisioned in the code of conduct will be made in different parts of the country by involving members of the advisory committee.
4. (18 November 2003), For a long time, United Nations agencies and international human rights organisations have been making public statements about an increase in the incidents of disappearances and torture. And also given the number of complaints filed at the NHRC, it has decided to request HMG to seek the assistance of the United Nations Human Rights Commission and invite a Special Rapporteur and the Working Group dealing with torture and disappearances respectively.
5. (25 November 2003), The Child Rights Act 1992 and the Act to ban Child Labour have made provision for different rights of children. It is the duty of the government to effectively protect these rights. However, we have received information that employees of HMG's offices are employing young children in labour. It was, therefore, decided to recommend to HMG to issue directives to all employees and officials of the army, civil service and police organs as well as government-owned corporations and other salaried government officials not to engage in any activity that violates the rights of the child. The government is also requested to take departmental action against those violating children's rights according to law and give utmost publicity so that such a system takes root at the people's level.

6. (25 December 2003), A need has been felt to despatch voluntary monitoring teams to study the actual human rights situation in the different districts in view of the growing number of incidents of human rights violation. This is to be done as per the Clause 9 (2) Kha, Clause 11 (6) and Clause 19, Human Rights Act.

As mentioned in the proposal, it was decided to despatch seven teams to 18 districts where human rights violations are believed to be high - Surkhet, Dailekh, Kalikot, Jumla, Ilam, Taplejung, Panchthar, Kailali, Doti, Okhaldhunga, Khotang, Bara, Parsa, Rauthat, Sarlahi, Dhanusha, Mahottari and Siraha. It is not possible to include only the Commissioners in the teams because of its limited staff members and also because the staff members must also attend to other works. It was, therefore, found appropriate to also include representatives of organisations such as the Nepal Bar Association, human rights-related organisations, Nepal Journalists Federation, National Dalit's Commission and National Women's Commission. As mentioned in the proposal, teams under the coordination of the employees of the Commission and representatives of the National Women's Commission and National Dalit's Commission are to be despatched.

The coordinator of the teams has been delegated the following prerogatives as per the Clause 19 of the Human Rights Act :

- a. To interact with the district's security agency, civil society, intellectuals, and human rights activists and collect data about incident of human rights violations by the state and excesses committed by the Maoists.
 - b. Collect information about persons held by any of the agencies or by anyone.
 - c. Inquire with other related people as well as the victims while collecting information.
 - d. If necessary, indulge in other activities while collecting information.
7. (25 December 2003), It was decided to send Hon. Member Mr. Sushil Pyakurel on an on-the-spot inspection of Mugu, where the ANNISU (Revolutionary) had forced teachers to implement the 'people's programme' in 35 schools of the district. The 119 teachers of the schools had then converged at the district headquarters since 16 December 2003 to find a way out of the situation. However, since no help was forthcoming from the concerned agencies, the Nepal Teachers' Association, Mugu sent a telegram demanding a solution to the problem.
8. (23 January 2004), As recommended by the Secretary, it was decided to form five teams headed by employees of the Commission and dispatch them to Dolkha, Ramechhap, Solukhumbu, Kaski, Baglung, Parbat, Accham, Bajura, Baglung, Chitwan, Makwanpur, Dhading, Nuwakot, Rukum, Salyan and Jajarkot to monitor human rights there. It was also decided to delegate authority to the coordinator of the teams as per the decision taken on 25 December 2003.
9. (31 March 2004), It was decided to dispatch teams, also comprising employees of the Commission, to monitor the situation of human rights and implementation of human laws following the attacks by Maoists on Beni, the district headquarters of Myagdi district.
10. (1 April 2004), In a letter of the Ministry of Home of His Majesty's Government dated 25 March 2004, with regard to the threat to the Commission's work, impartiality and prestige, the Commission has taken it gravely to the allegation that " by the

compilation of one sided reports hinting that the security forces are indulging in excesses, the Commission has been working to tarnish the image of the security forces among the general public and in the international field as well.....” Further, the Commission has taken it as unlawful interference in the affairs of the Commission the demand made in the same letter to compulsorily include representatives of the security forces in any of its investigation teams, which intends to directly cast doubts over the impartiality and independence of the Commission. As it is also a matter of grave concern that these actions go against the very commitments made recently by the Prime Minister on human rights, the Commission has requested that action be taken against whosoever made that correspondence. It was also decided to write to the Chief Secretary of HMG to make necessary arrangements so that from hence onwards, no such activities are undertaken that interfere with the working of the Commission.

11. (20 April 2004), It was decided to write to HMG to make available all information and the Government’s reaction with regard to the various incidents for which the Commission had made investigations on different dates. They include the killing of Rameshwar Yadav, a teacher of Bara district Devpur V.D.C., the disappearance of Shanta Pokhrel of Surkhet, the killing of Vikram Lama in Kavrepalanchowk by the security forces, the execution of Yadu Kumar Mudbhari in Nuwakot; the slaying of Viraj Gurung in Chitwan, injury to Kishor Khadka in Dhapasi, Kathmandu; killing of Subhadra Chulagain in Kavre Pokhari; killing of the general public in Pandau, Kailali; the murder of 15 persons in Hadikhola, Makwanpur; the execution of Maya Tamang in Chamakhar, Kavrepalanchowk, the murder of Suresh Raut in Raghunathpur, Bara and the abduction of Padma Bahadur Dahal from Malta, Lalitpur.
12. (20 April 2004), It was decided that the Commission would follow up on matters relating to the killing of the general public during the aerial strike on Vidya Mandir Higher Secondary School of Vinayak VDC, Achham and the abduction of general public by the Maoist in the Rehabilitation Area, Kanchanpur that have violated the rights of the people as a result of the tensions created thereafter.
13. (27 April 2004), Various reports on on-site studies carried out by the Commission on different dates were presented for discussions. It was then decided to do the following:
 - a. As the Commission team, which had gone to the Armed Police Force Headquarters and No. 2 Police Force Maharajgunj to enquire on the situation of the detainees detained in course of the agitation on 11 April 2004, reported that they were barred from meeting the detainees by D.S.P Makar Bahadur Gurung, S.P Dipak Ranjit and S.P L.P Basyal and as this act constitutes a flagrant violation of the rights of the Human Rights Commission as per Clause 9 of the Human Rights Commission Act 1997, the Commission has taken the matter very seriously. It was decided to proceed with the matter after investigations with the police personnel involved.
 - b. It has been seen from a study of other reports that people have been detained at the Raj Dal battalion, Lalitpur. The Commission has taken seriously to the fact that detention of persons in the army barracks constitute a violation of the detainee’s

rights and that an army barrack cannot be considered a fitting place for keeping people under custody. Similarly, the Commission has taken it gravely to find during its on-site investigation carried out on 10 April 2004 that people have been detained under inhuman conditions without minimum of human needs like mats or covers in the sheds and pens of the Food Corporation where normally sheep and goats are kept. As this subject matter has been put forward in the suggestions sent by the Commission to HMG for fulfillment of the commitments made by the Government, the Commission will pursue the matter for its effective implementation.

14. (7 May 2004), A Commission team, while conducting investigation on 2 April 2004 on the basis of information that people have been kept under unlawful custody at the Raj Dal battalion, Lalitpur, reported that persons including Prem Bahadur Maharjan, Jeevan Ghising, Kunti Tamang, Raj Kumar Thing, Sanjeeb Shrestha and Raju Ghimire were found to have been kept there under unlawful custody. As detention of any person in a place like a barrack, which is out of bounds for ordinary citizens and under the control of the army, would go against the very principle of human rights, it was decided to write to HMG to do the needful as per the law in their cases and promptly inform the Commission on the matter. Also, as one Pasang Lama said to be in the custody at the Raj Dal battalion by the District Administration Office has been reported by the Commission team not to be there (at the Raj Dal battalion), it was decided to write again to the concerned office to enquire about his whereabouts.
15. (14 May 2004), Discussion was carried out on the report submitted by the Commission team sent as per the Commission's decision of 20 April 2004 to investigate on the incidents that occurred at Tribhuvanbasti and Parasan VDCs of Kanchanur district on 7 and 8 April 2004. Some Maoists had died in the hands of a village mob, which was followed by a tense situation, causing panic among the general public. As per the details received on the incident, it was observed that after the Maoists coerced the public to attend their programmes, the agitated mob had killed seven Maoists. For this, the Maoists had threatened the locals with their lives spreading panic among the local people. Similarly, the army had rewarded the person who had handed over a gun seized from the Maoists with Rs. 10,000. The Commission views this act of reward as enticement to violent resistance and even threatening the life of the rewarded person. Therefore, the Commission considers such acts of publicly enticing and rewarding in the name of resistance committee as helping to promote violent incidents. The Commission, therefore, recommends HMG not to allow such acts and make necessary arrangement for the security of the life and property of the people of that region.
16. (7 May 2004), Discussion was held on the report submitted by the team sent to investigate on the incidents at Vidya Mandir Higher Secondary School of Binayak, Achham district where a helicopter attack on the Maoist programme caused fatalities and injury among the general public. With regard to the incident, it was decided to write to HMG to provide detailed information as to why it was necessary to conduct air strikes on a place like a school where there are students. HMG has also been asked to provide information on the relief measures being carried out following the incident.
17. (7 May 2004), In the course of the Commission's investigations on complaints received at the Commission and the denial by the Royal Nepalese Army that it was detaining any person in its barracks, the Commission sent an inspection team to the Raj Dal battalion,

Lalitpur. It was revealed that people were indeed being kept in custody there. Similarly, from the complaints filed at the Commission, it has been seen that a number of persons are still being detained in the barracks. The names of 40 such detainees and the place of their detention have come to the notice of the Commission. In this regard, it was decided to call the Defense Secretary to the Commission and seek an explanation with regard to such unlawful detentions.

3.6.2. The Commission's Decisions on the Complaints During the Reported Fiscal Year

The following table shows the decisions made by the Commission on the lodged complaints during the reported period in order to protect and promote human rights:

S. No.	Date of decision	Meeting No.	Decision No.
1	26 August 2003	54	1

Details of the decision : According to the Commission's decision dated 26 August 2003, the Commission examined the investigation reports submitted by the probe teams. The team with Krishna Jung Raymajhi as convenor, and Prem Bahadur Bista, Dr. Harihar Basti and Kanak Mani Dixit as members had submitted report on the incident of Doramba, Ramechhap district in which army men had killed 19 Maoists. Under the convenorship of Gyaindra Bahadur Shrestha, and with Dr. Meena Acharya, Satish Krishna Kharel as members, another probe committee submitted the investigation report on the Nagi incident of Panchthar in which security forces and commoners were killed in the blast of Maoist ambush. Likewise, another report came from the probe body, which was under the convenorship of Uday Raj Upadhyay and had Dr. Tulasi Kandel and Lila Bahadur Basnet as members and looked into the incident in which Maoists murder policemen at Dhangadhi of Siraha district. According to the Doramba probe-report, the army had cordoned off the house of Yubaraj Moktan near Maoist-affected Doramba Bazaar of Daduwa VDC when the rebels were having a meeting on 17 August 2003. Then, at around 10.30 am, the army opened fire at the house killing a man Tek Bahadur beside the house, and arrested other 19 persons who all were killed by the army later at 2.30 pm at Dada Kateri located 2-3 hours distant from Doramba. The probe panel seems to have come to the conclusion after examining, among others, the dead bodies buried earlier. Killing captives after having them taken hostage during the time of ceasefire has not only contravened and violated the human rights guaranteed by the Constitution and other laws of land, but also grossly infringed the international humanitarian laws enshrined in the Common

Article 3 of the Geneva Conventions. Therefore, the Commission decided to forward to the government the recommendations that the incident be investigated, stern action taken against the perpetrators, adequate relief and compensation provided to the affected families and adequate caution exercised to see that such incidents would not repeat in future.

S. No.	Date of decision	Meeting No.	Decision No.
2	26 August 2003	54	2

Details of the decision : According to the Panchthar probe report, approximately at 2.30 pm on 5 August 2003, a non-military public truck with the plate No. Na 1 Kha 7699 that carried 35 security personnel, truck driver, cleaner and a civilian, exploded in an ambush planted by Maoists in the civilians' thorough fare at Panchthar. In the incident, five security men and a civilian (truck driver) were killed on the spot, and other 23 injured. The incident had happened when a squad of army men took the truck to return to Panchthar district, after having escorted three army personnel up to Kabeli on the border with Taplejung district. The incident of ambushing the non-military truck that carried civilians and army men not on military or other aggressive mission even during the ceasefire has violated the international humanitarian laws enshrined in the Common Article 3 of the Geneva Conventions. Therefore, the Commission decided to recommend that in-depth investigation be made into the incident, perpetrators penalised, compensation be provided to the affected families, and adequate caution taken to see that no such incidents would repeat in future.

S. No.	Date of decision	Meeting No.	Decision No.
3	26 August 2003	54	3

Details of the decision : As per the Siraha related probe report, at 5.00 pm of 19 August 2003, Maoists had opened fire approximately at the unarmed policemen who, after completing their duty, were shopping at local public marketplace, of Dhangadhi, Siraha district. Assistant police inspector Ganesh Prasad Dahal and police *jawan* Shyam Narayan Yadav were killed in the shooting. Killing the security men on personal work and terrorising the local people at the time when the ceasefire code of conduct was in full effect, not only violated the constitutional rights to personal freedom, but also contravened the international humanitarian laws enshrined in the Common Article 3 of the Geneva Conventions. Therefore, the Commission decided to recommend that in-depth investigation be made into the incident, perpetrators penalised, compensation be provided to the affected families, and adequate caution taken

to see that no such incidents would repeat in future. These incidents have happened even when the Maoists have presented themselves as a political party from time to time, and agreed to the ceasefire and signed the code of conduct. Therefore, these incidents are not only an entirely irresponsible act, but also in contravention to the commitment that the Maoists have expressed towards the human rights at the Commission's office. Hence, the Commission decided to appeal to the Maoists for being aware of their commitment. From the investigation reports, it has been realised that during the armed conflict, there is need not only for creating public awareness about human rights, but also for properly protecting the human rights of civilians, and those security personnel in captivity not directly involved in war. The Commission decided to edit, if needed, and forward the reports on the above incidents to the government, and make them available to other parties if possible. It also decided to issue a press release stating these bits of information.

S. No.	Date of decision	Meeting No.	Decision No.
4	18 November 2003	59	3

Details of the decision : A lot of important information was elicited from the documents collected by the probe team deputed to Nepalgunj for investigating into the incident of Sharda Higher Secondary School at Mudbhara, Doti district of 13 October 2003. The team had inquired the injured people undergoing treatment in Nepalgunj. Also in this regard, the Commission obtained the field study report of the Mahendranagar-based Human Rights Project of Nepal Bar Association on 25 October 2003, as well as that of the Children as the Zone of Peace National Campaign on 24 October 2003. Since these reports also have confirmed the findings of the Commission's investigation, there was no need for conducting further studies to reach to the conclusion. The investigation offers a quite clear picture. When the people reportedly identified as Maoist were engaged in a cultural show, security forces launched an offensive, killing 10 at the site, of which 6 were Maoists and four school students. Another five students were also injured in the shooting. All the collected information shows that the people-purportedly Maoists-forcefully organised the cultural programme in the school despite having the knowledge that military operation at the site was very much likely as there were security forces stationed in the proximity of the school. Through the means of terror, they had prohibited the students and teachers from leaving the school and coerced and forced them to gather at the programme, and brought back even those who had already away from the site. The organising of the programme contravenes the widely welcomed idea of declaring schools the Zone of Peace and treating the schools free from violence and armed conflict. It has only resulted in such

a devastating incident in the school. Hence, it has established the Maoists as seriously responsible for the incident as their move contravened the international humanitarian laws enshrined in the Common Article 3 of the Geneva Conventions. On the other hand, the security forces also were to blame for not abiding by the laws and other legal procedures related to security operation. The laws in Nepal have provided for certain legal procedures, among others, for having a search warrant duly issued by the authorised officer. The Royal Nepal Army furnished no reply to the inquiry as to what legal provisions was the operation launched under. Therefore, it was clear that the security forces failed to observe even minimum pre-caution and forbearance and opened fire indiscriminately at the mass of the cultural programme, despite the repeated humble plea of the students after declaring their identity. The army men even gave no chance for surrendering, to the so-called Maoists. As a result, six Maoists and four innocent school students were killed, and another five students severely injured. Hence, in view of the existing laws vis-à-vis facts relating to the incident, the security forces' operation is clearly seen as gross negligence. It has not only violated the existing laws of land, international humanitarian laws, and human rights, but also resulted in what has been described as crime in Nepalese laws. Therefore, the Commission decided to advise the HMG with the recommendation that action be taken against those responsible for the incident through investigation into it, and appropriate, immediate relief be provided to the families of the victimised students. In addition, the Commission decided to give a written direction to the concerned authorities of the government reminding and alerting them that no security operation must contravene the existing laws, and infringe any basic right guaranteed by the Constitution, so that security forces should not repeat such incidents in future.

S. No.	Date of decision	Meeting No.	Decision No.
5	25 November 2003	60	7

Details of the decision : No response has been received from the Ministry of Defence and Home Ministry as the Commission inquired them the fact about the shooting at and killing Rajiv Shrestha driving a car with licence Plate No. Ba. 1 Ja 3948 that reportedly knocked a military vehicle carrying military school students on 6 November 2003. But, the media reported that the military probe committee had recommended for court martial by a military court against the army involved in the murder of Shrestha. Since a murder of a civilian by army personnel, as per the Military Act, 2016 BS, Section 61, does not fall within the jurisdiction of the Military Court, but explicitly with the Civil Court, the Commission decided to advise the government with the recommendation to immediately put it into appropriate legal action.

S. No.	Date of decision	Meeting No.	Decision No.
6	25 November 2003	60	12

Details of the decision : The evidences show that Ek Bahadur Dhakal has been kept in illegal custody since 23 January 2002 when the army had arrested him. Therefore, the Commission decided to advise the government with the recommendation to immediately put it into appropriate legal action.

S. No.	Date of decision	Meeting No.	Decision No.
7	25 November 2003	60	11

Details of the decision : The evidence shows that Nirmala Kumari Budhathoki has been kept in illegal custody since 13 April 2002 when the army had arrested her. Therefore, the Commission decided to advise the government with the recommendation to immediately put Ms. Budhathoki's case into appropriate legal action.

S. No.	Date of decision	Meeting No.	Decision No.
8	25 November 2003	60	14

Details of the decision : It seemed that the Office of Royal Nepal Army has sent letters on various dates to the government to conduct investigation into murder and abduction of army men by Maoists, and to find out the whereabouts of those army personnel abducted by Maoists. Therefore, the Commission decided to advise the government to launch the action in regard to those army personnel mobilised in anti-terrorist operation.

S. No.	Date of decision	Meeting No.	Decision No.
9	31 March 2004	67	5

Details of the decision : The Commission had forwarded recommendation to the government for deputing a high level committee to probe into the murder of former CPN-UML parliamentarian Hem Narayan Yadav on 23 February 2004. In this regard, the Commission has received the probe reports of Nepal Communist Party (United Marxist Leninist), and Human Rights and Peace Society, and has found that these reports also had recommended forming a high-level probe committee. Since it is a criminal case, the officials designated by the law of land must investigate it. Therefore, the Commission has the interest in taking legal action against those responsible for the incident after proper investigation. Hence, by attaching copies of probe reports and its previous letter, the Commission decided to forward the recommendation to the government that it get the incident duly investigated by a high-level probe committee.

3.6.3. Revision and Decisions in course of Implementation of the Commission's ruling

S. No.	Date of decision	Meeting No.	Decision No.
1	25 November 2003	60	8

Details of the decision : Since the concerned staff of the Home Ministry and Police Headquarters did not cooperate with it (Commission), but provided irrelevant, improper response to inquiry regarding the case of illegally keeping Khadga Bahadur Devkota in custody on 8 March 2001, the Commission sought the implementation of its decision dated 7 August 2001 for the Home Ministry's action against those staff members. To this move, the Home Ministry through its letter of 1 March 2002 responded by defending their staff. It explained to the Commission that the Ministry and Police were cooperating in providing sought information, and not ill intentioned. The write petition in this regard previously filed with the Supreme Court over the habeas corpus has been quashed through the letter of 11 May 2001, citing that its stipulated date had expired back on 30 March 2001. The documents related to the write petition have already been dispatched to the Commission office. Hence, it needed no further action, and the Commission decided to apprise the government about this development.

S. No.	Date of decision	Meeting No.	Decision No.
2	25 November 2003	60	9

Details of the decision : In regard to the Commission seeking implementation of its decision on Pratap Man Shrestha, it received the letter (dated 23 May 2002) from the Secretariat of the Cabinet of Ministers stating that the decision could not be implemented as per the Section 73 of the Civil Service Regulations, 2049. Since the government decision taken in case of Mr. Shrestha has contravened with the cases of Diwakar Dutta Pandey and Biswo Babu Tiwari, which are very much similar in nature, the Commission decided to make sure that the legal treatment be equal to all in the similar case as per the rights guaranteed by the constitution. It decided to apprise the government of its decision to implement equal treatment.

S. No.	Date of decision	Meeting No.
3	11 November 2003	As per the Office of Prime Minister and Cabinet of Ministers

Details of the decision : As per the Commission's decision over providing damages of Rs.30,000.00 to the affected families including the patronage 2185 to late Malecia Dev, patronage 2180 to Sagyandevi Roy, patronage 2181 to Devmaya Adhikari, patronage 2183 to Rampari Devi, patronage 2184 to Mana Turia Dev Shah, patronage 2189 to the

couple of Lalmaya BK and Bir Bahadur BK, patronage 2190 to Jagannath Mahara and his wife, patronage 2191 to Nara Bahadur Thapa Magar, patronage 2187 to Marani Devi Shah, patronage 2183 to Paro Devi Uranwo and Fulmaya Uranwo, and patronage 2188 to Sudama Devi Raut, sanction of the amount required for compensation has already been demanded from the Ministry. The amount once sanctioned shall be channelled through regional administration office to the district administration offices and finally disbursed to the concerned persons.

3.6.4. Complaints Filed With the Commission

An analysis of the complaints filed with the Commission shows that the number of complaints against violation of political and civil rights is highest. Of them, the complaints against forced disappearances on part of the state, owing to the present insurgency, are on the rise in number. Likewise, there have also been a increasing number of complaints lodged against the kidnapping on part of Maoist rebels of farmers, human rights activists, journalists, political party workers, teachers and students. A large number of complaints have been filed against the activities that violate the human rights of those who are not aligned with the conflict in any way; they include torture, forceful recruitment in the armed movement, illegally capturing properties, levying penalties, and creating terror. Besides them, there are a sizable number of complaints against physical assault, chopping off limbs, killing, capturing properties, forceful expulsion from the native place and hence, internal displacement, on part of the rebels against those political party activists who hold a different ideology from theirs. Since it is the responsibility of the state to maintain law and order, and provide security to the people, the obligations of disseminating the information of the Maoist atrocities to the civilians, domestic and foreign organisations, and taking actions against the perpetrators are referred to the Home Ministry. The Commission has also reminded the Maoists of the fact that the rebels should abide by the Common Article 3 of the Geneva Conventions, and that any default on their part to observe it should result in prosecution against the responsible top brass of Maoists as war criminals. Basically, the Commission has maintained a record of human rights violations and atrocities committed by both warring parties. Going by the complaints, the Commission has discovered complaints not only of rights violations, but also of family brawls, and other civil and criminal cases that do not fall within the jurisdiction of the Commission. Some of the complaints of the latter nature have been filed only with the Commission, in lieu of lodging it with the concerned bodies. Since the person need not be present in person at the Commission for lodging complaints, but can do it over telephone, or through fax and by letter, the Human Rights Protection Division cannot reach back to the complainants in the cases where their full name and contact addresses are not clearly and adequately mentioned. In other cases, since the complainants are not compelled to remain on bail like in the court cases, the victims may not be reached on time. This may take away the opportunity from the victims of filing such cases with the concerned government bodies within the legally permitted time. Hence, although an attempt is made to contact the alleged party (defendant) right on the day of receiving the complaint, the Commission does not receive the reply promptly. It has been identified as a problem, which negatively impacts the cases relating to the complaints of forceful disappearances and suspected killing in the armed confrontation. Since the Royal Nepal Army Office and the Ministry of Defence

fail to send prompt and adequate replies on time, the Commission faces hardship in taking prompt action on such complaints.

During this reported period, the Commission received a total of 1083 complaints. The following list showcases complaints by their nature:

Year	Months	Number
2060	Shrawan	26
"	Bhadra	65
"	Ashwin	90
"	Kartik	94
"	Mangsir	140
"	Poush	78
"	Magh	103
"	Falgun	119
"	Chaitra	76
2061	Baisakh	96
"	Jestha	85
"	Ashad	111
	Total	1083

Categorisation of Complaints by nature of Human Rights

Types of complaints	Months												Total
	Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad	
Civil and Political Rights	6	39	68	64	110	59	72	80	51	59	48	57	713
Economic, Social & Cultural Rights	3	1		2			2	7	1	2	3	6	27
Women's Rights	2	4	2		2	4		1		1	2	4	22
Child Rights					1		2						3
Torture and Compensation / Damages	5	2	1	3	3	3	4	3	1	1	2	1	29
Violation of Humanitarian Laws	3	9	14	14	13	8	13	18	16	28	25	36	197
Caste-based Discrimination				1	1			3	1		1	1	8
*Miscellaneous Rights	7	10	5	10	10	4	10	7	6	5	4	6	84
Total	26	65	90	94	140	78	103	119	76	96	85	111	1083

*Complaints that are not categorised under the above convention but are violations of human rights have been included under other rights heads.

Categorisation of Complaints concerning Civil and Political Rights

There were 713 complaints concerning civil and political rights whereas those relating to economic and socio-cultural rights stood at 27. Similarly, there were 22 complaints concerned with women's rights, 3 with child rights, 29 with torture and compensation/damages, 197 with the violation of humanitarian laws, and 8 with the caste discrimination and other rights. Those complaints, which the afore-mentioned categories do not cover but are the incidents of rights violation, have been encompassed within the miscellaneous category.

Types of complaints	Months												Total
	Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad	
Disappearances	5	30	61	55	99	49	52	62	41	42	36	43	575
Extra-judicial killings	1	3	3	5	6	8	15	13	4	5	6	5	74
Extra-judicial custody		4	1	3	4	1	3	4	4	4	1	3	32
Freedom			2							7		5	14
Displacement by the govt.							1				1		2
Injuries						1			1				
Miscellaneous*		2	1	1	1	1	1	1	2		4	1	15
Total	6	39	68	64	110	59	72	80	51	59	48	57	713

*It includes complaints relating to threats, pleas for soliciting security arrangement, and coverage against likely arrests.

Categorisation of Complaints concerning Economic and Socio-cultural Rights

Of the total of 27 complaints concerning Economic and Socio-cultural Rights, 3 each related to education rights and health rights, 1 each to property and food, 6 to Shelter/Housing, 10 to service rights, and 3 to miscellaneous rights.

Types of complaints	Months												
	Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad	Total
Education		1								1		1	3
Health											2	1	3
Shelter/Housing							1	4	1				6
Property/Religious/cultural				1									1
Service*	2			1				1		1	1	4	10
Food							1						1
Miscellaneous	1							2					3
Total	3	1		2			2	7	1	2	3	6	27

*It includes complaints relating to job-related discrimination, retirement-related discrimination, and deprivation of service and facilities.

Categorisation of Complaints concerning Women's Rights

Of the total of 22 complaints concerning women's rights, 1 related to flesh trade, 4 to domestic violence, 6 to witchcraft charges, 5 to marriage (matrimonial), 3 to rape and another 3 to miscellaneous.

Types of complaints	Months												
	Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad	Total
Flesh trade	1												1
Domestic violence						2						2	4
Witchery		4	1		1								6
Marriage (matrimonial)	1				1	1				1	1		5
Rape			1			1					1		3
Miscellaneous								1				2	3
Total	2	4	2		2	4		1		1	2	4	22

Categorisation of Complaints concerning Torture and Compensation/Damages

Of the total of 29 complaints against torture and compensation/damages, 2 related to the torture in illegal custody, 9 to the torture by police, 15 to the torture by the Royal Nepal Army, and another 3 to miscellaneous.

Types of complaints	Months												
	Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad	Total
Torture in illegal custody	2												2
Torture by police	1	1		3	1	1		1				1	9
Torture by the Royal Nepal Army	2	1	1		2	2	4	1		1	1		15
Miscellaneous								1	1		1		3
Total	5	2	1	3	3	3	4	3	1	1	2	1	29

Categorisation of Complaints concerning Child Rights

Of the total of 3 complaints against child rights violation, 1 each related to fostering of the orphaned child, sexual abuse (paedophilia) and miscellaneous.

Types of complaints	Months												
	Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad	Total
Trafficking													
Domestic violence													
Fostering of the orphaned child					1								1
Sexual abuse (paedophilia)							1						1
Miscellaneous							1						1
Total					1		2						3

Categorisation of Complaints Against Caste-based Discrimination

There were 8 complaints against caste-based discrimination during the reported period.

Types of complaints	Months												
	Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad	Total
Complaints against caste-based discrimination	1				1			3	1		1	1	8
Total	1				1			3	1		1	1	8

Categorisation of Complaints Against Violation of Humanitarian Laws

Of the total of 197 complaints against violation of humanitarian laws, there were 133 concerned with kidnapping and abduction by Maoist rebels, 20 with murder, 11 with looting and physical assault, 16 with destruction of properties and threats thereof, 12 with internal displacement, and 5 with the miscellaneous.

Types of complaints	Months												Total
	Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad	
Kidnapping and abduction by Maoist rebels	2	6	10	10	9	5	4	10	10	18	25	24	133
Murder				1	1		2	5		5		6	20
Looting, physical assault		1		2	3	1	2			1		1	11
Destruction of properties and threats	1	2	3			2	1	1	2	2		2	16
Internal displacement				1			4	1	1	2		3	12
Miscellaneous			1					1	3				5
Total	3	9	14	14	13	8	13	18	16	28	25	36	197

Categorisation of Complaints Concerning Miscellaneous Rights

During the reported period there were a total of 84 such miscellaneous complaints lodged with the Commission. Of them, 2 complaints were concerned with threats from individuals, 1 with the destruction of farm yields, 7 with murder by unknown people, 5 with deprivation of prisoners of ration facilities, 4 with looting, physical assault and fraud, 6 with disappearance (voluntary), 23 with disappearance after abduction by unidentified groups, and 36 with others.

Types of complaints	Months												Total
	Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad	
Threats from individuals	2												2
Destruction of farm yields	1												1
Murder by the unknown people	1			1			2		1			2	7
Deprivation of prisoners of ration facilities	2			1	1			1					5
Looting, physical assault and fraud	1	1	1									1	4
Disappearance (voluntary)		3		1							1	1	6
Disappearance after abduction by unidentified groups		6	3	1	5	1	4	1	1			1	23
Others			1	6	4	3	4	5	4	5	3	1	36
Total	7	10	5	10	10	4	10	7	6	5	4	6	84

Categorisation of Human Rights Violators by Complaints

While categorising the human rights violators by complaints, there were 99 complaints put the police as rights violators, 95 showed Royal Nepal Army, and 553 pointed their hands at the security forces. Likewise, there were 26 complaints against the administration, 197 against Maoists, 6 against family, 32 against individuals, 7 against the management, 34 against unidentified groups, and 34 against others. There were altogether 1083 complaints lodged with the Commission.

Types of complaints	Months												Total
	Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad	
○ Police	5	10	6	4	14	6	9	9	9	8	8	11	99
Royal Nepal Army	3	12	15	11	17	8	13	12	1		3		95
□ Security forces	5	20	49	51	81	48	54	63	42	52	40	48	553
Administration	3			3	1	1	2	4		3	3	6	26
Maoists	3	9	14	14	13	8	13	18	16	28	25	36	197
Family	1				1	2					1	1	6
Individuals	1	5	2	1	2	1	3	7	2	3	1	4	32
◇ Management	2			1	1					1	1	1	7
* Unidentified groups	2	7	3	2	6	1	6	1	1	1	1	3	34
Others	1	2	1	7	4	3	3	5	5		2	1	34
Total	26	65	90	94	140	78	103	119	76	96	85	111	1083

○ Police also includes the Armed Police Force (APF).

□ It refers to all the security forces jointly mobilised under the unified command.

◇ It denotes the management of the organisations.

* Unidentified groups refer to those who cannot be identified with usual human rights violators, and do not belong to security forces, Maoists, or else.

Categorisation of Human Rights Victims by Gender

Sex-wise, there were 80 female victims and 863 male victims. In addition to them, there were another 140 male and female victimised simultaneously. However, the total number of victims is feared to be even more.

Months	Female	Male	Both sexes	Total
Shrawan 060	4	17	5	26
Bhadra	7	54	4	65
Aswin	5	78	7	90
Kartik	6	7	81	94
Mangsir	6	125	9	140
Poush	9	68	1	78
Magh	6	94	3	103
Falgun	8	101	10	119
Chaitra	3	68	5	76
Baishak 061	10	86		96
Jestha	7	66	12	85
Ashad	9	99	3	111
Total	80	863	140	1083*

* Both sexes, i.e., both male and female, have been victimised in these cases.

* The number of complaints is likely to be even more than what have been mentioned here.

Decisions on the Complaints

S. No.	Year	Nullified	Under consideration	Decision
I.	2060 Shrawan- 2061 Baishakh	28	35	9
		Categorisation of cases nullified and put under consideration this year		Categorisation of cases decided this year
		<ul style="list-style-type: none"> • 10 cases against violation of humanitarian laws • One case concerning torture and compensation/damages • 37 cases against violation of civil and political rights • 2 cases against violation of economic and socio-cultural rights • 4 cases violation of women's rights • 9 cases against violation of other rights <p>Total cases: 63</p>		<ul style="list-style-type: none"> • 2 cases against violation of humanitarian laws • 6 cases against violation of civil and political rights • One case against violation of other rights <p>Total cases: 9</p>

3.6.5. Progress in Implementing Recommendations of the Commission

The Commission has received a few responses from the concerned authorities that it had contacted on different dates seeking information in regard to different incidents after it had received the complaints and human rights monitoring reports. Of them, the Commission has received the following information regarding the 20 incidents from the Office of Prime Ministry and Cabinet of Ministers on 12 May 2004 titled “Statement of Result of the Action taken after constituting a military court to probe whether the Royal Nepal Army operations have abided by the human rights and humanitarian laws or not”

1. Regarding the Chitwan incident

In regard to the complaint that army personnel had kept GTZ employees in illegal custody 7 May 2002 in Chitwan district, the investigation showed the captain as being the perpetrator. Hence, a departmental action was taken against him depriving him of the human development-training programme meant for promotion.

2. Regarding the incident of Sanfebagar, Achham district

The security forces were charged that they had prodded and beat GTZ employees with their gun-butts while in custody, when suspected people had failed to produce evidence of their identity during the security operation on 12 May 2002 at Sanfebagar, Achham district. The probe found the allegation baseless.

3. Regarding the incident of Kaule, Nuwakot district

There were allegations that the Royal Nepal Army had killed five innocent people at 1.00 a.m., at Burtungi, Kaule VDC of Nuwakot district on 28 November 2002. According to the investigation report of the incident, the army personnel stationed in temporary base camps had opened fire at a suspected group who—with torches in their hands—advanced towards the perimeter of the camp, and suspiciously dispersed in response to the warning of the security personnel on duty. Also in accordance with the opinion of the concerned board, initiatives were taken to pay damages to the affected families of those killed in the incident, and the concerned RNA personnel were cautioned not to repeat such incidents in future.

4. Regarding the incident of Chisapani, Bardiya district

An RNA captain was alleged to have kept a non-military woman for two days in illegal custody, and also raped her on 14 April 2001. But since the victimised woman herself refuted the rape charges during the investigation into the incident, the army officer was given a clean chit. However, the army personnel was found guilty of keeping in illegal custody the daughters of a man who reportedly failed to show up in the legal proceeding. The RNA officer was therefore suspended from promotion, as per the Military Act, 2016 BS.

5. Regarding the incident of Manpur Tapara, Bardiya district

There were allegations that after dragging Top Bahadur Karki and Bhoj Bahadur Karki out of their house while they were sleeping there, security forces had brutally beaten

and killed them. The incident had taken place on 14 January 2003, at Koili village of Manpur Tapara VDC Ward No. 3, Bardiya district. Since the probe panel found the victims as innocent, and the security personnel guilty, Rifleman Gyan Bahadur Tharu was terminated from the service, and handed out a seven-year jail sentence. Also as per the recommendation of the panel, Corporal Padam Bahadur Khatri was demoted a level, and correspondence was made to the concerned department to initiate legal action against the armed police personnel found guilty in the incident.

6. Regarding the incident of cheating at Bijuli Bazar, Kathmandu

In the incident of cheating of businessman Ram Kumar Sharma on 28 August 2002 at Bijuli Bazar, Kathmandu, RNA Personnel Corporal Nawaraj Karki, Rifleman Lal Bahadur Shrestha, Bishnu Pandey and Uttam Silwal were found guilty of cheating three civilians including Ram Kumar Sharma, and court-martialled with termination from service. The court martial also handed jail terms of 3 years to Corporal Nawaraj Karki, 4 years to Rifleman Lal Bahadur Shrestha and 6 months each to Riflemen Bishnu Pandey and Uttam Silwal.

7. Regarding the incident of cheating in Dhumbarahi, Kathmandu

In the incident of cheating of Bakery Café proprietor at Dhumbarahi, Kathmandu, on 9 October 2002, RNA personnel gunner Dipak Jung Thapa was found guilty of cheating and levying Rs. 200,000.00 from Laligurans Alina's Bakery Cafe's Arjun Bhandari by using the fake letter pad and seal of an organisation then tagged as 'terrorists' in the court martial of the incident. The court martial convicted Thapa to four month jail sentence, and suspended grade-promotion for two years.

8. Regarding the robbery in Nawalparasi

In the incident of Nawalparasi robbery, RNA Lance Corporal Dev Bahadur Chhetri and his colleagues were found guilty of terrorising and robbing a local Ganesh Prasad Khanal in Nawalparasi on 12 November 2002 and looted properties from him. The court martial gave the ruling to terminate convicted Chhetri and given 3 years jail term. It also ordered paying the compensation of Rs. 17,855.40 to make up the looted property.

9. Regarding the Baglung incident

RNA Personnel Corporal Surya Bahadur Khatri deputed to the checkpoint in Baglung was also court-martialled for the incident in which his carelessness had caused death of a civilian woman as he fired at her on 13 April 2003. Khatri was sacked from the army service and given a 9 months jail sentence.

10. Regarding the kidnapping case

RNA Rifleman Nar Bahadur Khatri, Lance Corporal Badri Mahat and Corporal Shiva Giri were court-martialled for kidnapping a civilian scribe Bed Prasad Bhattarai from Buddhanagar, Kathmandu, in the pretext of settling down a legal case on 22 August 2002. The court martial terminated Rifleman Nar Bahadur Khatri and Lance Corporal Badri Mahat and given each of them a four-months jail term, while it gave a clean chit to Corporal Shiva Giri.

11. Regarding the Tokha incident

The court martial found that security forces had opened fire at Kanchha Kaji Dangol and killed him on 15 March 2003, as he - while on the way to a location with suspected items - manoeuvred to escape from the security control in Tokha, Kathmandu. Two of those convicted were given a three-month jail term, and a commander was ordered to resign from service.

12. Regarding the robbery incident

In the incident that took place at Kamdi VDC, Banke district, on 13 May 2002, a gang comprising six army men and other civilians was alleged to have terrorised local Samsuddhin Darji with their arms, and demanded an amount of Rs. 125,000. The court martial of the case gave the ruling that the promotion of five convicted RNA personnel was to be suspended for three years.

13. Regarding the Balaju incident

In the shooting incident in which army personnel Rifleman Dil Bahadur Bista killed Rajiv Shrestha driving a car with licence Plate No. Ba. 1 Ja 3948 that reportedly hit a military vehicle carrying military school students on 6 November 2003, the Commission took stock of the recommendations of the probe committees, and found that the army man had opened the fire as Shrestha manoeuvred to escape from the scene after hitting the military vehicle. Therefore, initiative was stepped up to provide compensation of Rs. 200,000.00 to the family of late Rajiv Shrestha, and the court martial formed for this incident sacked convicted Bista from the service and given a four-month jail term as he was found to have resorted to use of excessive force.

14. Regarding the Mudhbhara incident

The security forces cordoned off and launched security operation on 13 October 2003 at the Sharada Higher Secondary School, Mudhbhara of Doti district, and killed four students while a Maoist cultural programme was in progress at the school with a large number of school students forced to attend the function. According to the probe committee report and its opinions, four students were killed in the security action against terrorists despite observing care to cordon students and teachers off from the site. In view of the facts related to the incident, initiative was stepped up for providing damages to the affected families.

15. Regarding the Khotang incident

Following the media reports, a probe committee was formed to look into illegal arrest, followed by killing of teachers Hari Bhattarai, Dakmani Koirala, and Durga Prasad Koirala of the Chisapani High School on 7 December 2003. The committee found the security personnel guilty in the incident on the basis of which the court martial gave two-year jail terms each to W02 jamdar Hasta Bahadur Kumal and Corporal Tej Bahadur Roila and terminated their service without disqualifying them for any future government jobs. It also dismissed the commanding officer of the squad without disqualifying them for future government jobs.

16. Regarding the Sunachari incident

Rifleman Dhan Bahadur Chhetri allegedly shot dead cleaner of Makalu Yatayat Bhoj Bahadur Giri at Sunachari, Makwanpur, when Chhetri found Giri show suspicious behaviour by putting his hand into the pocket and absurdly running towards the checkpoint post. The court martial created in connection to the incident found the RNA staff guilty of exerting excessive force, and given six months jail term, and suspension of salary increment for two years. It also ordered to provide proper compensation to the family of victim Giri.

17. Regarding the cheating incident in Dhalko

Royal Nepal Army personnel Narahari Shrestha, and Gun Bahadur Yonjan, who, with a few civilian accomplices, allegedly terrorised Sonam Lama of Dhalko, Kathmandu with their arms and demanded him an amount of Rs. 300,000.00 by using a forgery Maoist levy pad on 31 October 2003, were court-martialled and found guilty in the incident. The court martial dismissed them from the service and given a three-year jail term.

18. Regarding the abuse of weapons

In connection to the opening fire by RNA Corporal Suresh Lamichhane at civilians in course of a brawl with the latter on 21 December 2003 at Little Tokyo Dance Restaurant of Naya Baneshwor, Kathmandu, a probe committee carried out its study that led to formation of court martial that would investigate the incident of abuse of weapons. Lamichhane was found guilty and given one-level demotion in service and levied Rs. 9,938.00 as damages to the victim.

19. Regarding the Kabhrepalanchok incident

It was reported that the security forces visited Maya Tamang's house at Mahendrajyoti VDC, Kabhrepalanchok district to investigate her, but she misrepresented herself as another person. Ms. Tamang was taken into control when the forces came to know about her false identity, but when she reportedly manoeuvred to escape from the security control, the security men shot her dead on the spot. Following the probe committee report, the alleged army personnel are being court-martialled.

20. Regarding the Doramba incident

Court martial is under way in the incident security forces were alleged of killing 21 Maoist activists at Doramba, Ramechhap district on 17 August 2003, while taking them in custody.

3.6.6. The Commission's Human Rights Monitoring Activities

Basically, the monitors go to the field at the district headquarters and collect actual information from civil society, human rights activists, victims, security forces, and other stakeholders through individual or group interactions. Based on the report of monitoring teams, the monitoring may be analysed as follows.

The violation of basic human rights of the people in course of the present internal conflict has resulted from the warring parties' impact on those aligned in no way with the conflict. There are incidents of forced and involuntary disappearances after arrest by the security forces. Only a few of them are brought into the judicial process, that too because of pressure from different quarters of the society. Other incidents include keeping in house arrest even beyond the expiry of the stipulated date, re-arresting people by using another warrant after keeping them 2-4 days in custody, meting out physical and mental torture in the military custody, killing in custody, and arresting people in the pretext of paying levies and providing other supports to Maoists. In several districts, it was found that the army have made use of schools and health posts. No attention has been given to pay compensation to the school and health offices—the establishments having great social importance—for using them for the security operations. Nor were there any efforts found towards shifting the army stations from the schools and health posts to elsewhere. Even after a long time since the District Security Committee had recommended paying compensation to the schools and health centres and shifting them elsewhere, the line Ministry seems to be non-cooperative and irresponsible, as it has not properly implemented the decision. The incidents of Rukum and Bajura district headquarters are major examples.

Only those who have access seem to have obtained the allowance facility provided as per the government's policy decision to the displaced people; and the facility does not seem to have reached all the victims. Likewise, the state seems to be least bothered for improving the government jail, which were already in a dilapidated condition. Let alone the efforts to improve the adequate physical facilities. Physical reforms of the jails have been a distant dream. To worsen the things, the jails have faced the constraint of accommodating more inmates than their capacity. Hence, monitoring reports received so far have recommended for immediate prison and custody centre reforms.

Human casualties on both sides of warring parties during routine deputation or operation clash between security forces and Maoists have been reported. Since the security forces abstain from taking the photograph of those killed in the clash, their name, address, and age may not be known and reported, so that identification problems tend to come up. Since there can be several persons having the same name, it is an imperative need that there is a provision and practice to take photographs of those killed in action so that their family can take home the dead bodies as per the law to perform their last rites. The absence of taking photographs and hence, of proper identification mechanism is likely to lead to an increase in the number of incidents of involuntary disappearances in future. It is high time that the recording of statement (*Muchulka*) and incident notes are duly created, post-mortem performed and photographs taken of the dead bodies in each incident.

In most of the cases, Maoist activists resort to socket bomb attack and ambush blast targeting the security forces to badger, beleaguer and frighten the forces, and then instantly escape the scene. Following this, the security forces embarks upon search operations in the community of civilians by lining up them on the queue, and beating, torturing and arresting them indiscriminately. Such a practice is to blame for the civilians' increasingly negative feeling about the security forces.



A myriad of atrocities have been doled out by the CPN-Maoists. They include kidnapping children from the schools and using them in the armed conflicts. Likewise, the Maoists have abducted the activists of political ideologies different from theirs, and forced them into the training camps. Kidnapping schoolteachers, and extorting them as well as from civil servants, farmers, and labourers are other atrocities of Maoists. They also levy annual pay from every ex-armyman on pension. They are also found to have resorted to severe torture if the victims would refuse to pay the amount. The rebels are also using children as human shields, forcing pregnant women, elderly people and children into rallies and processing. The monitoring has also reported the use of children as militia in the armed conflict, and sexual mistreatment and exploitation of women. Likewise, the indefinite strikes (*bandh*) of industrial institutions, schools and transportation has deprived people of their rights to work and living. The report on monitoring of 2060/61 is on the process of publication.



Projects Operated by the Commission

- 4.1. Capacity Development Project**
- 4.2. Completion of office of the Human Rights Status**
- 4.3. Office of the National Rapporteur in Trafficking on Women and Children**
- 4.4. Promotional Projects for the Human Rights of Dalits**
- 4.5. Responding to the Crisis Project**



4.1. Capacity Development Project

The capacity development project in National Human Rights Commission started from April 2002. This project was operated with the assistance of Australia, Canada, Denmark, Finland, Norway, Switzerland, UNICEF, United Nations Office of the High Commissioner for Human Rights, International Labor Organization (ILO) and Asia Pacific Forum under the co-ordination of the United Nations Development Programme(UNDP). This project has been implemented in view of the need to implement in a proper and effective way the responsibility of protecting and promoting the human rights as provided in the Human Rights Commission Act 1997. In line with discharging its responsibility, the project concentrates on the following three major areas:

- To promote human rights through programs related to education, training and access.
- To protect human rights through the mechanism of complaints and investigations.
- To assist His Majesty's Government in developing the human rights culture and in the effective implementation of human rights policy through the acts of monitoring and consultancy.

In view of the existing conflict and the need to extend its activities to more areas to solve the existing problems of human rights, the Commission in coordination with UNDP has completed the re-evaluation of the project. The major activities being completed under this project are as follows:

4.1.1. Automated Complaint Management System (ACMS)

Procedure for documenting reports regarding human rights violation by the Human Rights Commission was found lengthy and time consuming. Therefore, the mechanism of automatic and effective complaint service was felt necessary so that the Commission could receive the complaints regarding any human rights violation in time in order for it to act expeditiously. This project has been thus conceived to identify and differentiate the different genre of reports and to create an information database.

The main aim is to develop a general system of complaint management. Due to the cultural and traditional similarities between Nepal and India, the National Human Rights Commission of Nepal has decided to use a software on Complaint Management System (CMS) which is being used by the Human Rights Commission of India. During the consultation with the Indian colleagues, they agreed to provide the CMS free of cost to the Human Rights Commission of Nepal. However, this mechanism should also have to be adjusted to the Nepalese environment and circumstances. So, under the partnership with the Indian Human Rights Commission, the Human Rights Commission of India has agreed to make the CMS compatible to the Nepalese environment and the complaints procedure requirements in Nepal.

4.2. Completion of Office of the Human Rights Status

Realizing the need of a report covering all the subjects and issues regarding human rights, the National Human Rights Commission of Nepal, with a view to provide information on the current status of the human rights in the country, had initiated a research-oriented project. The status report was distributed with its publication in both languages, Nepali and English.

4.3. Office of the National Rapporteur in Trafficking on Women & Children

Realizing the need for an institutional mechanism for developing conceptual clarity regarding women and child trafficking, for monitoring incidents of trafficking by introducing public opinion, for synthesizing the steps taken in national, regional and international level to control trafficking, and for introducing the high level commitment to improve the status of women and child rights, the Office of the National Rapporteur was set up in the Commission. It was established as per the agreement dated 29 August 2002 between the Ministry of Women, Children and Social Welfare and the National Human Rights Commission. However, the office came into operation only after 10 January 2003.

The Office of National Rapporteur functions under the National Human Rights Commission. It works for human rights, gender equity and prevention of trafficking and similar other activities along with the treatment, prevention, protection and rehabilitation of the trafficked individuals. After its establishment, the main activities undertaken by the National Rapporteur Office during the period covered by this report are as follows:

4.3.1. Discussion with Interest Groups on Action Plan

To formulate the action plan of fiscal year 2004, the National Rapporteur Office organized various discussion programs with the major interest groups. One of such programs was held on 12 February 2003 with the team of NGOs active in the sectors dedicated to women and children. The other was held on 15 March 2003 with the team of INGOs and the United Nations. These interactions provided input for the action plan of the Office of the National Rapporteur. It was also known that the trafficking of women and children be prevented in coordination with the National Rapporteur Office. The INGOs and donor agencies have shown their interests and commitments for assistance in this regard.



4.3.2. Interaction for the Plan of Action to Prevent Trafficking of Women and Children

In order to address the problem relating to the trafficking of women and children, a program was held in Rupandehi in the Central Development Region on 31 March 2003. The main objective of this program was to prepare the strategic plan for strengthening the existing programs against trafficking of women and children and to further clarify the position of the human rights on the issues relating to the trafficking. Representatives from

Kapilbhastu, Syanja, Rupendehi, Aargakhachi, Gulmi, Baglung, Parwat, Myagdi and Nawalparasi had participation in this program.

4.3.3. Meeting with Task Forces of Various Districts

In order to investigate and monitor various ongoing abuses against women and children, the National Rapporteur met with the task forces in various districts like Udayapur, Jhapa, Dhanusha, Morang and Sunsari in Eastern region; Rupandehi, Nawalparasi, Chitwan and Dhading in Western region. During the meeting, information regarding the activities of the district task force was gathered. It was suggested that these task forces be further strengthened.

4.3.4. Workshop on Human Trafficking

On 2 April 2003, the National Rapporteur Office organized an interaction program for the members and staffs of the National Human Rights Commission. The objective of this program was to develop better understanding on the issues of human trafficking, identify the human rights violation at different stages of human trafficking and prepare a proper strategy for the human rights protection those being sold.

4.4. Promotional Projects for the Human Rights of Dalits Held

In preparation of the “World Conference Against Racial Discrimination, Intolerance, Xenophobia and Related Causes” held with the theme of “Fight for Self Respect, Equality and Justice” at Darban, South Africa, from 31 October to 7 September 2001 at the call of the United Nations, the Human Rights Commission of the United Nations assisted the National Human Rights Commission to run promotional programs in raising the people’s awareness against racial discriminations. Accordingly, the Commission completed the promotional project relating to the human rights of the Dalits. The following are the main objectives of this project:

- a) To raise awareness about racial discriminations among leaders of the political parties, planners, central and district level officers of His Majesty’s Government, intellectuals and general people.
- b) To provide a platform to the government and non-governmental organizations for discussion and suggestion by conducting intensive studies on Dalits in relation to their actual problems, their status of human rights and the provisions according to the commitment made by the state at the international level.
- c) To organize programs regarding protection and promotion of Dalits’ rights by ensuring unity and support at the national level.

In the second phase of this project, a study regarding their financial, social, cultural and literacy status of the Chamar group belonging to the Dalit class was carried out. Besides, various other activities undertaken during this phase include the preparation of a documentary film reflecting the current status of the Dalits, the problems they are facing and their economic, social, cultural life; publication of poster with a view to raise people’s awareness relating to the existing social discriminations against the Dalits and the role to

be played by the society against such discriminations, and the organization of the workshop seminar on the problems of Dalits and their solution. All the programs under the second phase have been completed and their reports have also been publicized.

4.5. Responding to the Crisis Project

With the view of monitoring human rights situation in the country, a human rights monitoring project under the National Human Rights Commission has been conducted with the help of Danish, Norwegian and British governments. The evaluation of the first phase of the project has been completed in this fiscal year and the permission for the second phase of the project has also been granted and is now in the process of execution. All the activities under this project have been mentioned above. The first phase of the project started on 1 June 2002 has been completed. The second phase of the project is due to start on 1 July 2003. The total budget allocated for the first phase of this project is 4.1 million Rupees and approximately 9 million Rupees for the second phase of the project. Staffs and officials have also been appointed under this project.



CHAPTER 5

National and International Relations

5.1. National Relations

5.2. International Relations



5.1. National Relations

National relations play an important role for the Commission to perform its tasks as specified by the law responsibly. The Commission has maintained its relation with His Majesty's Government, various ministries, security agencies, human rights NGOs, civil society and senior citizens and intellectual class of the society by means of various interactions and cooperation. The information, advice and suggestions received from these groups can play a decisive role to perform the tasks of the Commission. Therefore, the Commission is also making an effort to maintain a balanced relation among various offices, organizations and intellectual groups in the country. The Commission has relations at various levels with the following bodies:

- a) Relations with His Majesty's Government
- b) Relations with NGOs
- c) Relations with the political parties
- d) Relations with Parliament
- e) Relations with civil society

5.1.1. Relations with His Majesty's Government

His Majesty's Government has repeatedly committed that it will cooperate with the Commission to discharge its functions and responsibility as provided by the law. The Government was very helpful in monitoring the human rights situation during the time of state of emergency. However, it has also been felt that expected and prompt response by various bodies of His Majesty's Government have not come on issues such as making available the information as asked by the Commission regarding protection of human rights, sensitivity of the Government on questions pointed out by the Commission regarding human rights and protection of fundamental rights. The state has been heavily criticized on the national and international level for its ineffective steps and sluggish response in improving the human rights situation in Nepal. However, it is also a positive sign to launch a separate human rights cells to monitor human rights related activities inside offices under His Majesty's Government such as Home Ministry, Armed Police Force, Royal Nepal Army and civil police, all under His Majesty's Government.

In order to quell the armed rebellion and maintain peace in the country, the government has promulgated Terrorist and Disruptive Activities, (Control and Punishment) Ordinance (TADO) according to which the civil police, Armed Police Force and Royal Nepal Army have been mobilized under a unified command. The number of cases reported to the

Commission regarding disappearances, unjust killings and illegal detentions are on a rise. However, the Armed Police Force, civil police and various other bodies under His Majesty's Government have not been cooperating well with the Commission. These government bodies are not responding efficiently to the Commission's correspondence. Firstly, they do not send information that the Commission had asked for and even if they do send them, they send them incomplete and very late. Further, they completely disobey in executing the Commission's recommendations and suggestions. All these problems are hindering the Commission to work much more effectively and properly.



The Commission however believes that His Majesty's Government will provide adequate cooperation to it so that the two parties in conflict can come to a peaceful solution by respecting the steps towards the protection of human rights as proposed by the Commission itself.

5.1.2. Relations with the Non-Governmental Organizations (NGOs)

The Commission is working with various other human rights affiliated NGOs, professional organizations and civil society for the protection and promotion of human rights. The Commission has organized various human rights observation trainings to the representatives working for the human rights organizations at the micro level in all five development regions of Nepal. Similarly, many joint programs have been organized for the protection of human rights through the initiation of different human rights organizations.

In order to address the most current and happening issues of the country, the Commission has sought for valuable advice and suggestions from various NGOs and other bodies to discharge its functions and responsibility as provided by the Law. During the period covered by this report, the NGOs working in the human rights sector have helped the Commission significantly in monitoring the Human Rights situation, field visits and even in carrying out activities while celebrating Human Rights Day throughout Nepal. Along with these activities, the NGOs are also playing an important role in helping the Commission by providing information and sending complaints regarding Human Rights violation to the Commission, and in organizing trainings and interaction programs.

5.1.3. Relations with the Political Parties

The Commission has been organizing various interaction and discussion programs time and again with the political parties, realizing the importance of its role in protecting and promoting human rights situation in Nepal. In the coming days, the Commission plans to move ahead by taking this present conflict into a peaceful transition and develop a culture for human rights by strengthening its relations with the political parties.



5.1.4. Relations with Parliament

In the previous years, the Commission had a very healthy relation with Parliament by means of discussions and mutual interactions. However, since the dissolution of Parliament, a vacuum seemed to have been created due to the lack of people's representative in Parliament which has obstructed the Commission's effort in holding discussions with the parliamentary members regarding the Commission's reports and protection of human rights. The Upper House and Lower House of Parliament had taken interest in the report presented by the Commission for protection, promotion and respecting of human rights. However, due to the dissolution of the parliament and the prospect of re-election still uncertain, it does not seem like this report shall be discussed in Parliament.

5.1.5. Relations with Civil Society

The Commission has been working in cooperation with different NGOs, professional organizations and civic society for the protection and promotion of human rights. The Commission has conducted trainings in all the five development regions of the country to the representatives working in the micro level of various human rights organizations regarding monitoring and observation of human rights situation in their region. On the request of various human rights organizations, many joint programs have also been conducted for the protection of human rights. For example, on the request of different organizations working for the welfare of children, the Commission sent a team of representatives from various walks of civil society headed by an official of the Commission Mr. Surya Bahadur Deuja to Achham and Bajura districts. They were sent there to monitor and investigate on issues related with right to education and health. The right to education and health had been violated as more than eighty schools and health posts had been forced to shut down along by fear and intimidation. The Commission has also been collaborating with the civil society on its invitation to programs related with protection of human rights and peace.

5.2. International Relations

The Commission has been maintaining cordial relations with various international agencies, embassies, donor communities, along with the organizations and VIPs working in the sector of human rights ever since its establishment. In this regard, Capacity development project that is running in coordination with UNDP, DIHR, Canadian Human Rights Foundation (CHRF) and Danish International Development Agency (DANIDA) have also been providing financial support for the basket fund. Similarly Norwegian, Danish and British Embassies have been supporting in Responding to Crisis Project. The UNOHCHR has supported in the sector of Dalits' Human Rights and exchanging experience and information from the Asia Pacific Forum of National Human Rights Institutions. All these have played a very important role in enhancing the Commission's capability and strengthening its organization.

Even under the complex situation due to the internal conflict, the Commission in the capacity of any independent and autonomous institution for the preservation of human rights has been playing a significant role in the issues relating to the protection of human rights and the peaceful resolution of the conflict.

The educational visits to the various other National Human Rights Institutions (the Forum) of the Asia Pacific Region, by the chairman and other staff members of the Commission have also helped tremendously in the enhancement of regional support and cooperation. In this regard, the bilateral agreement for cooperation, enhancement and support between the National Human Right Commission of Nepal and Human Right Commission of India after the discussion and consultancy in the area of trafficking is being taken as an important achievement for the Commission.

Because of budget constraints, the Commission has not been able to extend its activities beyond the capital. However, the European Commission is helping the Commission to establish its regional offices in the country by which the Commission expects to strengthen its connectivity and contacts.

5.2.1. Relations with United Nations Development Program (UNDP)

The United Nations Development Program has been helping the Commission continuously since the short period of its establishment in enhancing its capacity and in developing the organization. The capacity development project of the National Human Rights Commission has been endorsed and the project is in progress. Under this project, the Commission was assisted and supported on various programs like giving training to the officers of the Commission, educational tours for the staff members and secretaries, renovating the Commission's building situated at the previous Ministry of Supply ect. The support to the Commission by the different donor agencies are coordinated by United Nations Development Programs.

5.2.2. Relations with other International Human Rights Organizations

Ever since its establishment, the Commission has received various kinds of support and help from different international organizations. The Commission has been maintaining a cordial relation with different international organizations for the protection and promotion of human rights. The Commission has been collaborating with various international organizations like Amnesty International, International Committee of Red Cross (ICRC), European Commission and UNICEF for the protection, promotion and research in the human rights sector.

5.2.3. Relations with National Human Rights Organizations in the Asia Pacific Forum

Ever since the NHRC became the member of Asia Pacific Forum, the Commission has been playing a very effective role in the activities organized by the Forum. Fourteen countries from the Asia Pacific region have been the member of this Forum. These countries have the human rights commissions established in accordance with the 'Paris Principles' adopted by the UN General Assembly. These institutions have been working for regional cooperation and also for the protection and promotion of the human rights so as to establish a national mechanism to help in the process of development. The expenses of the Forum are borne by the Office of the UN High Commissioner for Human Rights (OHCHR), Australian government, the government of New Zealand and various other donor communities. The secretariat of the Forum is situated in Sydney, Australia. The Commission hosted the eighth annual meeting of the National Human Rights Organizations of the Asia Pacific Forum in Kathmandu from February 16-18. The meeting was inaugurated by the then prime minister Mr. Surya Bahadur Thapa.

At the opening ceremony, Chairman of the Commission, the Rt. Hon. Nayan Bahadur Khatri welcomed the participants. Mr Matthew Kahane, United Nations Resident Coordinator (Nepal), on behalf of Mr. Bertrand Ramcharan, Acting High Commissioner for Human Rights, also addressed the inaugural session. In their opening statements, the distinguished speakers recognized the need to protect and promote human rights and ensure the rule of law in combating terrorism. The NHRC of Nepal, as the host institution of the annual meeting, was unanimously elected to the position of Chairperson of the Forum. The National Human Rights Commission of India, as the host institution for the last annual



meeting, and the National Human Rights Commission of the Republic of South Korea, as the host institution for the next annual meeting, were also elected unanimously to the two positions of Deputy Chairpersons. The member nations of this Forum are the National Human Rights Organizations of Nepal along with Afghanistan, Australia, Fiji, India, Indonesia, Malaysia, Mongolia, New Zealand, Palestine, the Philippines, South Korea, Sri Lanka and Thailand. An interim report on the subject of terrorism and rule of law was presented by the Advisory Council of Jurists at the program. NGOs presented working papers on four different issues. Commissioners of the NHRC Dr. Gouri Shanker Lal Das, Mr. Sushil Pyakurel and Mr. Mathema of the National Rapporteur Office against Women Trafficking shed light on the various activities conducted by the Commission and on the present situation of the conflict. The Forum welcomed the participation of the Advisory Council of Jurists and the representatives, as observers, from the ILO, UNDP and UNESCO, the governments of Australia, India, Indonesia, Nepal, New Zealand, Republic of Korea, Solomon Islands, Thailand, East Timor, United Kingdom and the United States of America, institutions from Iran, Jordan and the Maldives, the regional network of National Human Rights Institutions of the Americas, and 38 international, regional and national NGOs.

5.2.4. Representation on International Coordination Committee Related with Human Rights

Nepal has been appointed for the International Coordination Committee on human rights by the Asia Pacific Forum (APF) which it had been representing since last two years. The Commission had also represented itself in the annual meeting held this April.

5.2.5. 59th Meeting of OHCHR

The chairman of the Commission addressed on the 59th meeting of OHCHR.



Training and Study Visits

6.1. Visits and Participations of the Commission Officials

6.2. Visits and Participations of the Commission Staffs

6.1. Visits and Participations of the Commission Officials

The training and study visits participated by the members of the Commissions during this reported period are listed below:

(i) Visits abroad and participation of NHRC Officials From 17 July 2003 to 15 July 2004

S.N.	Name of Visiting Officials	Visited Country	Programs	Visit Schedules
1.	Commissioner Dr. Gouri Shankar Lal Das	Malaysia	Study Visit	30 Nov - 5 Dec 2003
		Qatar, Doha	Workshop on Regional Cooperation for Promotion and Protection of Human Rights in the Asia Pacific Region.	2 March - 2 March 2004
2.	Commissioner Shushil Pyakurel	The Netherlands	International Criminal Investigation, Training	29 Feb - 5 March 2004
		Japan	Establishment of National Institution, in Japan	8 - 9 December 2003
		The Netherlands	Role of NHRC in	22 Feb - 13 March 2004
		Belgium	establishing peace in Nepal and cooperation of EU	
		Germany	International Criminal Court & Human Rights Protection	29 Sept - 1 Oct 2003

6.2. Visits and Participations of the Commission Staffs

Training plays a vital role for the development of skills and knowledge which are essential for the protection and promotion of human rights. Similarly, the study tours to international institutions are also of equal importance in exchanging the experiences with them. The Commission has not been able to conduct such training programs itself due to lack of sufficient resources. But has shown the interest and has actively participated in such programs offered by other related institutions.

The training and study visits participated by the staffs of the Commission during this report period are mentioned as per listed below:

(i) Abroad Visits and Participation of NHRC Staffs From 17 July 2003 to 15 July 2004

S.N.	Name of Visiting Staffs	Visited Country	Programs	Visit Schedules
1.	Mr. Radha K. Upreti	Malaysia	Study Visit	30 Nov - 5 Dec 2003
2.	Ms. Abha Shrestha	Malaysia	Study Visit	30 Nov - 5 Dec 2003
3.	Mr. Koshraj Neupane	Malaysia	Study Visit	30 Nov - 5 Dec 2003

S.N.	Name of Visiting Staffs	Visited Country	Programs	Visit Schedules
4.	Mr. Surya Bahadur Deuja	Sri Lanka	Workshop on Capacity Building to Promote & Defend Diversity in South Asia	4 Oct - 9 Oct 2003
5.	Mr. Imesh Pokhrel	Denmark	Training on Human Rights	16 Oct - 1 Nov 2003
6.	Mr. Murari Prasad Kharel	Malaysia England	Study Visit Training for Peace and Conflict resolution	30 Nov - 5 Dec 2003 9 Jan - 4 March 2004
7.	Mr. Durga Khadka	Denmark	Training on "Human Rights General Course"	11 - 27 March 2004
8.	Mr. Subodh Pokhrel	Malaysia	Study Visit	30 Nov - 5 Dec 2003
9.	Mr. Deepak Dhoj Jung Karki	Canada	Training on Internet and use of Web Page for Human Rights	13 June - 9 July 2004

**(ii) Abroad Visits and Participation of NHRC Acting Secretary Kedar Prasad Poudyal
From 17 July 2003 to 15 July 2004**

S.N.	Visited Country	Programs	Visit Schedules
1.	Italy	To participate Second Session of the Intergovernmental Working Group for the Elaboration of a set of voluntary Guideline to Support the Progressive Realization of the Right to adequate food in the Context of National Food Security	26 - 29 October 2003
2.	Switzerland	Paris Principles Round Table / to participate in program of Lithuania	10 - 11 Dec 2003
3.	Qatar, Doha	To participate Workshop on Regional Cooperation for Promotion and Protection of Human Rights in the Asia Pacific Region	2 - 4 March 2004
4.	Switzerland	To participate in programs of ICC and United Nations Human Rights Commission	13 - 16 April 2004
5.	Australia	To attend forum's meeting on Senior Executive Network	16 - 22 May 2004
6.	Italy	To participate in Third Session of the Intergovernmental Working Group on Right to Food Guideline	29 June - 4 July 2004

CHAPTER 7



Appraisal and Challenges

7.1. Achievements of the Commission

7.2. Challenges faced by the Commission

7.1. Achievements of the Commission

The Commission had, in the context of the talks process being held following the cease fire between the Government and the Maoists and the subsequent signing of the cease fire code of conduct, prepared a draft Human Rights Accord and sent it to both the parties for signing the accord for the effective monitoring of human rights and the setting up of a monitoring mechanism. The Commission had received positive response on the draft from various national and international human rights organisations such as Amnesty International, OHCHR, and civil society including intellectuals from various spheres and disciplines. This had encouraged the Commission towards maintaining momentum in its protection works. However, the talks broke down as there was no coordination between the two parties, and the cease fire became meaningless. Nevertheless, the Commission has been requesting both the parties to find a solution to the problem through talks across the table.

Even while the code of conduct on the cease fire was in force, incidents of human rights violation and atrocities were being reported from various parts of the country, owing to which the Commission in the course of fulfilling its statutory responsibility gave continuity to carrying out investigations on reported cases of human rights abuse. Various high level committees were formed to enquire into and submit reports on these incidents. Thus, the Commission has been playing an important role for the peaceful transformation of conflict through the protection of human rights.

The Commission has worked in association with various national and international organisations for the protection and promotion of human rights. The Commission has made positive achievements in the protection and promotion of human rights by working in coordination with the judicial bodies, security agencies and NGOs. The Commission has maintained very cordial relationships with the national and international organisations working in the field of human rights.

Likewise, the Commission has, in the course of fulfilling its duties and responsibilities and systematically completing its tasks and imparting skills to its staff has undertaken various important activities like hiring foreign advisors, training its staff, organising study visits, initiating modifications in the laws, framing of policy etc. Some significant positive accomplishments achieved by the Commission have been dwelt upon as follows:

7.1.1. Initiatives for the conflict transformation by peaceful means through protection of human rights

The Commission had, in the context of the peace talks process being held following the cease-fire between the Government and the Maoists and the subsequent signing of the cease-fire code of conduct, prepared a draft on Human Rights Accord and sent it to both the parties for signing for the effective monitoring of human rights and the setting up of a monitoring mechanism. The Commission had been encouraged towards effective monitoring on the protection of human rights by the positive response received on the draft from various national and international human rights organizations, Amnesty International, OHCHR, the civil society including intellectuals from various spheres and disciplines. But due to the indifference of both the parties to the talks on the matter, the Maoists finally decided to quit the talks by unilaterally declaring that the justification for the cease fire had

ceased to exist. The Commission has expressed its deep concerns and distress on the loss of the golden opportunity for the restoration of permanent peace by addressing the agenda of human rights which the ensuing circumstances had once again led the country to killings, destruction and grave incidents of human rights violations. The Commission has been requesting time and again to find a peaceful solution to the problem through negotiations across the table.

The Commission played an important role in the transformation of conflict through the peace process. In separate interactions conducted at the Commission with the high-level Maoist leadership and ministers in the government as well as senior leaders of political parties, the commitment shown by them towards human rights has further inspired the Commission to galvanize its activities. The Commission had called upon both the government and the Maoist for a cease fire. To give permanency to the cease fire declared by both the sides, the Commission had drafted a code of conduct and submitted to both the factions.

Even while the cease fire code of conduct was in force, incidents of human rights violation and excesses were being reported from various parts of the country owing to which the Commission in the course of fulfilling its statutory obligations gave continuity to carrying out investigations on reported cases of human rights abuse. In this context, the Commission formed three separate high-level investigation committees under a former judge of the Supreme Court to look into the cases pertaining to incidents that occurred at Doramba of Ramechhap, Dhangadi in Siraha and Nagi in Panchthar while the cease-fire was still in force and to submit a report to the Commission. Based on the on-the-spot investigation report, the Commission, time and again, issued appeals to both the warring factions to honour human rights and humanitarian laws. The Commission has been inspired to proceed with firm commitment in the protection of human rights by the high evaluation of its task of bringing the truth to light through investigation by an independent unit.

Aware that the various organs of the state still do not have a clear concept about the Commission, it has successfully conducted orientation programmes for the law enforcement agencies at the regional level and training on human rights monitoring for representatives of various NGOs working in the field of human rights. The Commission expects that this would bring significant improvements in the protection and promotion of human rights in the future.

Despite the constraints in resources and minimal budget, the Commission, which has been entrusted with the protection and promotion of human rights, has been taking important initiatives in the protection of human rights. In this context, some vacant positions have been filled in the Commission and in projects under it with the purpose of meeting the human resources requirements of the Commission for the monitoring of human rights. Similarly, the process to fill the vacancies at the regional offices established with the financial support of the European Union are at the final stages after having completed the written as well as the oral tests for the vacancies advertised. This is expected to provide the necessary support in areas where the Commission does not have access in the protection and promotion of human rights.

With the Supreme Court of Nepal playing an important role in guaranteeing human rights as provided for in the Constitution, the request by the Apex Court to the Commission to

conduct investigations into cases related to human rights and submit a report is expected to help the Commission to work in collaboration with the Court on issues of human rights protection.

In the context of the drafting of activities on human rights and initiation of its enforcement by His Majesty's Government, the Commission expects support in the protection of human rights. Similarly, following discussions, meetings and interactions held on different occasions, the Commission has been successful in obtaining commitments for the protection and promotion of human rights from the human rights cells formed at the Nepal Police, Home Ministry, Royal Nepalese Army and Armed Police Force. These cells have been formed with the mandate to support implementation of the recommendations of the Human Rights Commission.

Various trainings on protection and preservation of human rights for the staff of the Commission conducted by international human rights organisations along with the skill enhancement project conducted at the Commission have been concluded. The Commission has also received consultancy services from international consultants. It is expected that these measures will bring significant improvements in the protection and preservation of human rights besides enhancing the capability of the Commission.

Despite all the problems and challenges, the Commission is striving to fulfill its statutory obligations in the protection and promotion of human rights. Due to support from various quarters, the Commission has been able to accomplish its objectives to a great extent.

7.1.2. Extension of the Commission's access

Despite constraints in resources and minimal budget, the Commission which has been entrusted with the protection and promotion of human rights has been taking important initiatives in the protection of human rights. In this context, some vacant positions have been filled in the Commission and in projects under it with the purpose of meeting the manpower requirements of the Commission for the monitoring of human rights. Similarly, the process to fill the vacancies at the regional offices established with the financial support of the European Union are at the final stages after having completed the written as well as the oral tests for the vacancies advertised. This is expected to provide the necessary support in areas where the Commission does not have access in the protection and promotion of human rights.

7.1.3. Active Participation in International Forums

The Commission has been strengthening its relations with the international communities working in the field of protection and promotion of human rights. In this context, the Commission has been playing an important role in the activities of the Forum as the eighth member of the Asia-Pacific Forum of National Bodies on Human Rights. Thereby, the eighth annual conference was successfully held from 16th - 18th February. This has helped to enhance the Commission's capability and boosted the image of the Commission in the international arena.

The Commission's international relations are in the process of expansion. In the past, the Commissions of Nepal and India agreed to extend mutual cooperation in controlling human

trafficking, especially those prevailing along open border of the two countries. Similarly, the conference had elected the Nepal Commission to represent the Forum in the International Coordination Committee on Human Rights Commissions. Accordingly, the Commission had participated in the Committee meeting. Likewise, the Chairman of the Commission addressed the 59th conference of the United Nation's Human Rights Commission. Besides, the consent to hold the eighth conference of the Asia Pacific Forum in Nepal can be taken as an important opportunity for the Commission. Thus, the Commission had an opportunity to introduce itself in the international arena, learn from each other's experience and further modify its activities.

The Commission has participated in the United Nation Human Rights Conference. Similarly, the interest expressed by the UN Human Rights Commission through its "Chairman's Statement" on the status of Human Rights in Nepal is expected to provide significant support to the Commission in fulfilling its role more effectively in the protection of human rights. The details of "Chairman's Statement" are stated in Annex 2.

7.1.4. Collaboration with the judicial agencies

In the context of the Supreme Court of Nepal playing a significant role in guaranteeing human rights as provided for in the Constitution, request by the Apex Court to the Commission to conduct investigations in cases related to human rights and submit a report is expected to help the Commission to work in collaboration with the Court on issues on human rights protection. The Supreme Court has a vital role in guaranteeing human rights sanctioned by the Constitution. It is well known that in situations of armed conflict in the country, various other organs of the state are not able to effectively play their roles in the protection of human rights. There have been difficulties in giving verdict on several cases pertaining to protection of human rights being filed at the Supreme Court. This difficulty has been due to the reason that the security agencies have not been seen to be fully cooperative with the Judiciary. In this context, a practice has begun for the Court to seek help from the Commission on cases relating to human rights. The Court has on several occasions asked the Commission to provide information available with it as well as conduct investigation into several petitions filed at the Supreme Court and submit reports. The apex court has in several cases ordered the release of detainees on the basis of information provided by the Commission. In the days to come, the Commission feels the need to work more effectively for the protection of human rights by identifying other means to work in collaboration with the Judiciary.

7.1.5. Collaboration with the security agencies

In the context of drafting the activities on human rights and initiation of its enforcement by His Majesty's Government, the Commission expects support in the protection of human rights. Similarly, following discussions, meetings and interactions held on different occasions, the Commission has been successful in obtaining commitments for the protection and promotion of human rights from the human rights cells formed at the Nepal Police, Home Ministry, Royal Nepalese Army and Armed Police Force. These cells were formed with the mandate to assist in the implementation of the recommendations of the Commission.

There can be no argument that the preservation of human rights cannot be effectively achieved so long as a conducive environment of cooperation with the security agencies is not created. As the security forces are presently being mobilized under the command of the Royal Nepalese Army, it is but natural that the majority of the cases relating to human rights abuses are directed towards the army. Though the prevalent laws empower the civil administration with the authority to mobilise the security forces, in practice, however, such is not the case. Owing to the army's own style of functioning and the difficulty in gaining access to information, the Commission has felt that it has not been able to obtain the expected cooperation from the army.

Realizing this, the Commission has conducted interaction meetings with the senior level officers of the security agencies of all the five development regions of the country with a view to disseminate information about the activities of the Commission and also to inform about human rights and international humanitarian laws. It is hoped that this would, to a great extent, help in creating an environment of cooperation in the Commission's activities.

The Commission was engaged in efforts to exchange cooperation by maintaining harmonious relations with the army, police and HMG agencies. The regular interaction programmes with the senior level officials of government bodies has helped in creating a mutually conducive environment for cooperation. The establishment of human rights cells in these bodies has been favourable in maintaining regular contacts with the Commission. This has provided huge support to the activities of the Commission.

7.1.6. Increase in the Commission's Capacity

Various trainings on the protection and promotion of human rights for the staff of the Commission conducted by international human rights organizations as well as the Skill enhancement project conducted at the Commission have been concluded. The Commission has also received consultancy services from international consultants. These measures are expected to bring significant improvements in the performance of the protection and preservation of human rights as well as enhance the capability of the Commission.

The Commission has achieved significant progress in the enhancement of its capability as a result of its experiences for the preservation of human rights, trainings, expert consultancy and capacity enhancement programmes. The successful holding of the eighth conference of the Asia-Pacific Forum of National Human Rights Institution, monitoring and investigation of human rights in the remote areas of the country during situations of internal conflict, extension of physical resources and technology, enhancement of human resources are some examples of the capability augmentation measures undertaken by the Commission.

Despite all the problems and challenges, the Commission is striving to fulfill its statutory obligations in the protection and promotion of human rights. Due to support from various quarters, the Commission has been able to accomplish its objectives to a considerable extent.

7.1.7. Relations with NGOs engaged in the field of human rights

The Commission has, during the project period, initiated steps in expanding and consolidating relations with the various NGOs engaged in the field of human rights. The Commission has

during the project period provided training on monitoring and reporting of human rights to representatives of NGOs working at the regional level in all the five development regions. Likewise, the Commission has been making meaningful contributions by providing resource persons for trainings on human rights, sent representatives to discussions and seminars at the request of various human rights NGOs. For example, the Commission has lent support to the network formed with the objective of promoting the concept that 'Children are the peace zones'.

7.1.8. Information on complaints on human rights violation

Complaints filed at the Commission were actively handled to the extent allowed by the available resources. The Commission has taken exception to the crime against vulnerable women on the charge of practicing witchcraft and made recommendations to the Government to create a mechanism for the prevention of occurrence of such crimes and also has recommended that compensation be paid to the victims of such criminal acts.

In meetings with the Prime Minister on issues of incidences of human rights violations and the monitoring and investigations carried out by the Commission on them, the Commission has been providing important suggestions on the steps needed to be taken by the government for the preservation of human rights. The Commission has also been disseminating information to civil society and mediapersons on the activities of the Commission by organising various programmes from time to time on these subjects.

7.1.9. Provision of foreign consultants

Realizing the various difficulties faced by the Commission in the discharge of its statutory obligations in the country's conflict-ridden complex situation, the short tenure of the establishment of the Commission and prevalent conditions where the armed forces have been mobilized to restore law and order, the Commission has hired the services of some experts with international experience in the field of human rights as foreign consultants. This is expected to render significant support in the effective implementation of monitoring of human rights, training on human rights as well as for the administrative and managerial aspects of the Commission.

7.1.10. Staff training

During the report period, the task of providing training to the staff on human rights as well as on various subjects relating to the profession has been concluded. Various trainings conducted by the Commission, including human rights monitoring and investigations, increasing gender awareness, technical training on use of computers etc have been very helpful in the enhancement of the skills and knowledge of the staff.

7.1.11. Study visits

During this fiscal year, officials of the Commission went on a familiarisation visit of human rights commissions in countries like Thailand, the Philippines, India, Sri Lanka etc. During the visits, information and views were exchanged regarding the activities, experiences and positive aspects of these commissions which have proved to be very helpful in the course of the operation of the Commission's activities.

7.1.12. Initiation on law reforms

Recognizing various shortcomings in the existing rules and regulations which have been hindering the efficient functioning of the Commission as a free and autonomous agency on the basis of the tenets set by the Paris Principles, the Commission has taken various initiatives to draft and draw up different laws and regulations like the Human Rights Commission Act, Staff Regulations, etc. In this context, the Commission has also set up a committee with the purpose of offering necessary advice to amend the Human Rights Commission Act. Likewise, the Commission has completed such tasks as the drafting of directives regarding human rights monitoring, training manual on human rights, preparation of a code of conduct for the members and the staff of the Commission and its implementation. This is expected to considerably facilitate the Commission in meeting the legal and procedural shortcomings in its work performance. The Commission has also drafted and implemented the financial regulations.

7.1.13. Policy Making

The Commission has started work on policy making on various subjects to make it more proficient in playing an effective role for the protection and safeguarding of human rights. The Commission has initiated working on the drafting of various policies including the human resources development policy, policies related to the implementation of the principles adopted by the strategic plan of the Commission, policies on monitoring of human rights, expertise service and staff recruitment.

7.1.14. Monitoring of Human Rights Action Plan

This year, the Government has prepared a human rights work plan. The Commission has taken this as a significant opportunity as it expects the action plan to provide support in the more effective execution of the Commission's activities. The Commission has also taken this act as a commitment by the Government towards upholding human rights. The participation by the general public, along with the officials of the Commission getting engaged in some way or the other in preparing this action plan, has helped in making the various agencies of the government more active and aware of matters related to human rights.

7.2. Challenges facing the Commission

The challenges facing the Commission, while protecting and promoting the human rights in the course of carrying out its responsibilities granted it by law, are discussed below:

7.2.1. Implicated situation due to the internal conflict

Although the cease fire between HMG and the Maoists during last reported period gave some hope, human rights situation worsened with the country heading towards more violence and killings. If the internal armed conflict has resulted in the deaths of thousands of innocent citizens, the condition of the widows, disabled and orphans is getting even more critical. The image of Nepal in the international arena has also been tarnished due to incidents of human rights violation such as abductions, disappearances and torture.

As in the past, there has been an increasing number of complaints at the Commission relating to disappearances, abduction, torture and illegal arrests. If the Maoists are continuing to kill ordinary citizens on charges of being informers, the state, too, has not been embracing the legal procedures as required by the rule of law, leading to incidents of arrests, killings and torture. All this has resulted in the growing number of incidents related to human rights violation. Ordinary people have been badly affected by the use of children as shields, abductions, torture, confiscation of property, closure of educational institutions and blockades on vehicular traffic.

The killings, violence and destruction have complicated the conflict situation. Although the state and the Maoists have verbally committed themselves to human rights and humanitarian laws, their activities do not show this in practice. Investigations carried out by the Commission on the incidents that took place at Doramba, Nagi and Siraha during the second cease-fire show that both the state and the non-state actors are not committed to human rights and humanitarian laws.

If the present armed conflict cannot transform itself through peaceful means, there could be a major rise in serious human rights violations such as killings, arbitrary arrests, inhumane torture, abductions and disappearances. Since this could lead to a point where the whole human rights situation becomes untenable, it is essential that all those concerned become sensitive to the issue. The Commission is of the opinion that the conflict should be managed through peaceful means. The state, non-state actors and the civil society should, thus, cooperate with the Commission. If the help is not forthcoming, the Commission's initiative at peacefully transforming the present conflict so that there is respect for, protection and preservation of and adherence to human rights will face grave challenges.

7.2.2. Human rights protection

For the protection of human rights, the Commission has been, as per the Human Rights Act 2053, taking action on various cases of human rights violations brought to the fore either at the initiative of the Commission itself or reports appearing in various newspapers or petitions filed by different organisations. The Commission has also been seeking punishment for the violators of human rights and compensation for the victims. Regarding these petitions, the Commission has been writing to the different agencies and departments of HMG to notify as well as to seek the necessary assistance. However, inability to get the desired response and an uncooperative attitude towards the Commission have posed a big challenge in the protection of human rights. Given the growing number of incidents related to human rights violations as a result of the more than eight-year-long conflict, the limited resources, materials and access are inadequate for human rights protection activities. In view of this grave situation, if the government is unable to provide the necessary assistance to the Commission, protecting human rights will be extremely challenging.

The Commission has been moving ahead despite the numerous challenges it faces in carrying out its responsibilities as granted by the Nepal Human Rights Commission Act 2053. During this report period fraught with incidents of killings, violence and declaration of a state of emergency which has resulted in the suspension of all human rights granted by the Constitution, the Commission had to pass through a testing time to identify its appropriate

role. The ordinance relating to the “Terrorist Activities and Destructive (Control and Punishment) Act”, promulgated by the King at the recommendation of the Council of Ministers on 26 November 2001, adversely affected the people’s right to avail themselves of human rights. Similarly, the Commission faced great difficulty in protecting and consolidating human rights after the declaration of a state of emergency by the King on 27 November 2001 at the recommendation of the Council of Ministers.

In the midst of this extreme situation of the conflict, the mobilisation of the security forces and the growing incidents of violence committed by the Maoists, the National Human Rights Commission in co-partnership with the civil society did monitoring work in some violence-affected districts to protect human rights and impose humanistic laws. In the course of the monitoring work, it collected information on human rights violations by the state and non-state parties and excesses committed such as killings, torture, rape and violation of Common Article 3 of the Geneva Conventions. The excesses committed by the non-state party in preventing the people from using territory and power were documented during the monitoring period. Given the rising number of cases relating to disappearances by the state and repetition of a chain of incidents relating to abduction, killings, torture and destruction of public property by the Maoists, the task of protecting human rights poses a serious challenge.

From the very inception, NHRC has been monitoring human rights in different parts of the country in a bid to collect facts relating to human rights violation and encode them, and to recommend and draw attention to the protection of human rights after analysing the reports received. The Commission has been receiving important help from government agencies, the army, police as well as from non-governmental organisations working in the field of human rights, professional organisations, civil society and local communities in its monitoring activities. During this report period, the Commission monitored the overall human rights situation in 58 districts. The report that was prepared based on the facts gathered, their study and analysis, has made various recommendations for the protection of and adherence to humanistic laws. But the government has not shown itself to be serious and has failed to take concrete steps. This has made the protection of human rights very challenging.

7.2.3. Protection of Economic, Social and Cultural rights

The Commission has taken important initiatives to guarantee the people economic, social and cultural rights as the guarantee of civil and political rights alone do not address the people’s basic human rights. It is important that the economic, social and cultural rights are guaranteed to address the main causes of the conflict - poverty, unemployment, social disparity, disproportionate distribution of resources and materials - and to find a peaceful way out. Since only through the combined efforts of the government, rebels, donors and civil society can this materialise, the initiatives taken by the Commission to guarantee the economic, social and cultural rights are just as challenging.

7.2.4. Responsibilities on the basis of International Commitments on Human Rights

As regards the report on international conventions, there have been indications of reform accruing from the positive initiatives taken by the Commission in the course of fulfilling its responsibilities. However, HMG has sent the 2nd and 3rd periodic reports of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the 15th and 16th periodic reports (CERD/C.452.Add, 2) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the 2nd and 3rd reports of the Convention on Child Rights (CRC) without the counsel of the Commission. Due to the uncooperative attitude of HMG, the Commission faces problems in executing its rights given by law.

7.2.5. Disappearances and other serious human rights violations and action of complaints

Most of the complaints filed at the Commission deal with disappearances, abductions, illegal arrests and physical and mental torture. As per Clause 14 of the present Constitution, the fundamental rights of the people say arrests must be made only as per law, an arrest warrant must be produced, torture and cruel behaviour are not to be allowed, a detention notice must be served, those arrested must be produced before a judicial authority within 24 hours, one cannot be forced to stand witness against oneself and the right to seek the services of a legal professional. Clauses 23 and 88 have also given the right to remedy. Other fundamental rights include the right to life and freedom, and presenting sufficient basis for preventive detention.

Apart from this, the Civil Rights Act 2012, Torture and Compensation Act 2053 make mention of related provisions, but no act or law has been formulated addressing disappearances. HMG has committed itself respecting human rights and humanitarian law through the 26 March 2004 declaration. It includes provisions made in the constitutional and other laws as well as human rights, humanistic law and fundamentals of criminal justice. Topics such as arrests, detention, initiation of court proceedings, services of legal professionals, facilities to be provided at the detention centre, compensation for torture and strong evidence supporting transfer or release from detention have been included in its preparation.

The particulars of those persons who have gone missing or abducted based on the petitions filed at the Commission during this report period are given in the Annex 5. Human rights organisations have taken up this issue seriously, and Amnesty International has listed Nepal at the top of the countries with the most number of disappearances, while the working group of the United Nations working against disappearances has also taken up the matter seriously.

Disappearances following arrests and abductions are crimes against humanity, and such acts should be controlled immediately. The task of bringing the perpetrators of such acts within the legal framework is becoming late. To the state's response that it had not made any arrests, most of the people have given written statements to the Commission of not only their arrests but also details about where they were detained and the torture meted out. This has put a big question mark over the credibility of the government's response. At a

time when the government does not live up to the laws and policies related to human rights, which itself has enforced, it is essential that human rights organisations, the international community, civil society, political parties and professional organisations either protest or put pressure on the government. As for the Commission, on matters relating especially to disappearances and abductions, it is essential that it not limit itself to receiving petitions, corresponding with the concerned agencies, preparing files, publishing the number of petitions filed and making statements. It must vigorously push for action against such acts against humanity. It is of utmost urgency that a solution is found to the problem by cooperating with the civil society, political parties, human rights activists, professional organisations and NGOs.

Ever since its establishment, there have been numerous petitions of human rights violations at the Commission. For example, during the first report period in the first year, there were 528 petitions, whereas in the second report period there were 302 petitions. There were 483 the following year and 1,083 petitions during this report period. The Commission faces difficulty in initiating action, inquiring and investigating into the petitions. The government has mobilised the Royal Nepalese Army, Civil Police and Armed Police Force under a unified command of the security forces to provide security following the ordinance to control terrorism 2061.

Since the majority of the complaints filed at the Commission deal with disappearances, extra-judicial executions and illegal detention, the Commission has written to the armed police, civil police and other agencies of HMG for the truth. However, the Commission either fails to receive the information it is seeking or the response is late, incomplete or inadequate. There has also been an attitude to ignore the recommendations given, posing problems in settling the petitions. The Commission claims that although it was somewhat easy to acquire information from and gain access to the police, the same could not be said for the Royal Nepalese Army. On the one hand, the Supreme Court has been requesting the Commission to probe into the disappearances and file a report, but on the other hand, it has not been easy for the Commission to gain access to the army's barracks. This poses obstacles in not only looking into the complaints but also executing the orders of the court.

Based on the complaints filed at the Commission that the disappearances were carried out by the state and the Maoists, it has published the names of those persons who have gone missing to draw the attention of the related sides to the issue.

Apart from the above mentioned reasons, the Commission has not been able to effectively carry out its actions on the complaints because of its limited resources and manpower. As a result, there has been a proportionate decrease in the number of investigations and inquiries made into the petitions in relation to the increasing number of petitions received at the Commission. The Commission, established by an Act to protect and preserve human rights, has not received the expected cooperation from the different agencies. On the other hand, the rebel side has been ignoring the request made by the Commission to respect human rights and humanistic laws. As a result, the Commission faces a big challenge in executing national and international laws.

7.2.6. Massive internal displacement

The protection of human rights of the thousands of people displaced by the conflict is a big challenge. The Commission has been stressing on a definition for the displaced person. It has also been calling for a study on a small scale of the field of those displaced and an institutional system to resolve the problem by the state.

The conflict has displaced more than 15,000 people. Since programmes relating to their rehabilitation, family union and compensation have not been effectively implemented, the protection of human rights of these internally displaced persons poses a grave challenge. The task of protecting their human rights will be even more challenging should HMG, the donor community, NGOs and the civil society fail to provide sufficient cooperation and coordination to protect their fundamental rights, rehabilitate and create an environment for them to return.

7.2.7. Impunity

The state has, during the state of emergency and mobilisation of the forces, created an environment of impunity by devaluing national as well as international commitments, acting above its accountability, refusing to investigate or take action against the guilty according to legal procedures, and refusing to take action on the complaints and evade penalty. This poses a challenge to the Commission.

7.2.8. Delay in signing on memorandum of understanding between OHCHR and His Majesty's Government

The analyses made on the basis of the annual reports of the National Human Rights Commissions of the previous years finds that both the conflicting sides, the state and the Maoists, are not fulfilling the basic provisions of the international humanitarian laws as provisioned in the basic principles of human rights, the fundamental rights enshrined in the Constitution of the Kingdom of Nepal 2047, human rights mentioned in the international conventions related to human rights to which Nepal is a signatory, and the Common Article 3 of the Geneva Conventions. Both the conflicting sides are vying to outdo each other in the violation of the human rights in their areas. The Chairman's Statement at the 60th session of the United Nations Human Rights Commission had expressed deep concerns on the deteriorating situation of human rights in Nepal and it had asked His Majesty's Government to help the NHRC in monitoring the human rights situation by providing it technical and other assistances by signing a memorandum of understanding. But as the memorandum of understanding has not yet been signed, the NHRC has not received the expected assistance in the protection of human rights.

7.2.9. Ambiguity in government's outlook towards the Commission

Although increasing number of government bodies are aware of the Commission there are still some who take the commission as part of the government or in many situations put the commission in the rank of other non-governmental organizations. There are also some who raise questions about the utility of the formation of the commission and on its legal responsibilities. This lack of clarity often leads to raising questions on the very relevancy

of the Commission. There are even high officials of the government who lack a clear understanding about the Commission. The government side harbours the notion that the Commission only raises questions and makes suggestions on the violation of human rights by the officials working in government bodies and it is not concerned about violations from the Maoist side. The formation of the Commission was to look into the violation of human rights by the government bodies and to make recommendations on the responsibilities of the government to give a sense of human rights to the citizens. If any group or individual other than the government does anything that violates human rights it comes under serious crime to other activities against the law according to the nature of the work. It falls under the state's responsibility to take action against those individual or group to protect the people's rights. Therefore, the Commission does not look into controversies between individuals, but looks into the violation of human rights by the bodies to take actions due to its failure to fulfill its responsibility and makes necessary recommendations to the concerned bodies. The related bodies should be clear about it. In the present situation of conflict, the Commission has received complaints of the non-state party, calling itself a new regime, of involving in murder, rape, kidnapping and other activities that violates human rights. Legally, the Commission is in no situation of making recommendation, order or take action against the non-state party. Still, the Commission is making all efforts on how to make the non-state party responsible. That is why, because the responsible units are not clear about the limit, area of authority and its reach, the commission has to face additional challenges in its functioning.

7.2.10. Implementation of the decisions of the Commission

With the Commission carrying out investigations on the complaints it receives, and on the basis of the reports of the investigation, it has asked for factual information and reactions. But the failure of His Majesty's Government and the related bodies to provide information in a systematic manner makes it difficult for the Commission to make decisions on the complaints and also to implement the decisions it has taken. During this period, the Commission had written to the government through the Cabinet Secretariat to implement its decision on several issues including Doramba and others. The government has only partially implemented the decisions sent by the Commission, but on many other important decisions, the implementation of the decisions has faced problems because the Commission has not received timely information about their implementation. However, things can be expected to improve after the responsibility of coordinating between different government agencies regarding the implementation of the Commission's decisions is given to the Human Rights Promotion Centre under the Office of the Prime Minister and the Council of Ministers of His Majesty's Government.

7.2.11. Lack of cooperation from the concerned bodies

The Commission cannot function effectively without appropriate cooperation from the government bodies and agencies. The Commission expects cooperation in areas such as providing information and notices demanded by it as soon as possible, in unrestricted access to jail and custody and detention centre for inspection and investigation and in implementing its suggestions. There is involvement of the security forces in several cases of human rights violation. Although getting information and access to the police forces is somewhat easier,

access to the army is lacking. It is also difficult to find real and factual information because of the attitude of shunning responsibility by pointing at another unit. There are even examples of those bodies taking the incidents of human rights violations as something that is natural in their attempt to control violence. It is a serious challenge before the Commission on how to make those bodies responsible in the days to come.

The National Human Rights Commission can fulfill its responsibility of protecting human rights effectively only if the government provides appropriate cooperation in protecting human rights. Therefore, there is no second opinion that the people's wish for lasting peace in the present sensitive situation will take forward step only if the government becomes sincere in honouring, protecting and preserving human rights. Despite its continuous efforts, there are numerous examples of the Commission not getting the institutional respect from the lowest level of the security organs because of misunderstandings. The Commission has therefore taken it as a serious challenge.

7.2.12. Issues on making the non-state party responsible

Legally and practically, the state should take the responsibility of the excesses done by the non-state party. It is a matter of serious concern on how to protect human rights in areas where there is no presence of the state. It is also very important for the commission to look to be independent and impartial in its conduct and activities so that there is no hindrance to make its presence felt in all parts of the country. As in the past, incidents of the common people, olds, children, pilgrims and passengers of bus being killed, kidnapped, maimed and extorted from the non-state side have been reported. There should be honest implementation of the commitments made to respect human rights and the people's right to live must not be infringed under any pretext. In this context, there is urgent need for ideological and practical commitment from the CPN-Maoist. In such a situation, the Commission faces a daunting challenge on what kind of and how to make relations with the Maoists as part of its function and activities and how to make them responsible towards human rights.

7.2.13. Absence of House of Representatives and local bodies

On 22 May 2002 His Majesty the King, on the recommendation of the Prime Minister, dissolved the House of Representatives according to Article 53 (4) of the Constitution of the Kingdom of Nepal 2047, with the date of the election for the new House of Representatives fixed for 13 November 2002. After the dissolution, the human rights situation faced more complications in the absence of the parliament. Then the Commission expressed its point of view on the announcement of the countrywide state of emergency imposed by His Majesty the King, on the recommendation of the prime minister, on 27 May 2002. Then the meeting of the council of minister on 15 July 2002, decided not to extend the term of the members of the local bodies, but to make a committee under local development officers to look after the local bodies. The non-extension of the terms of the members of the local bodies, who were elected five years ago, forced 3,913 VDCs, 58 municipalities and 75 district development committees to remain without people's representatives.

This made the situation more confusing. During the period of this report, the Commission faced obstructions in its functioning due to the absence of the House of Representatives

towards which the Commission is responsible. Similarly, in the absence of the locally elected representatives, people are facing serious problem in enjoying their civil and political rights along with economic, social and cultural rights because there is no where they can take their complaints and difficulties. The Commission's last annual report of the fiscal year 2059/60 also could not be discussed in Parliament and there was no place where the Commissions problem and grievances could be heard. In the absence of the human rights committee of Parliament, several decisions of the commission have not been finalized.

7.2.14. Human Resources

Skilled human resource is imperative for any organization to run smoothly. Although the required number of positions was determined when the Commission was established all of them have not been fulfilled because of financial reasons. Twenty positions were filled on a permanent basis during last fiscal year. Similarly, the process of recruiting staff for its regional offices is on the final stage. This has helped to make the work smooth to a large extent. Still, the inability to fulfill the positions of the chiefs in different divisions has hampered the work of those divisions. Although there is alternative way of fulfilling the remaining positions on temporary basis by bringing staff from the government, the problem is that, on one hand, those staffs do not remain in the Commission for long and they return to their original positions after receiving training. It is also difficult to find staff who are familiar with the working procedure of the Commission and proficient in the skill required by the Commission. Even in fulfilling the vacant positions on permanent basis has its problems – the Commission cannot provide pension and other perks as in the government and when the salary is equal to that of the government dissatisfactions are seen among the staff as soon as they join the Commission. As the Commission will not be able to fulfill the vacant positions during this fiscal year because of limited financial source, may not be able to make the expected achievement.

7.2.15. Financial resources and autonomy

In all countries that have accepted the directives of the Paris Principle and have established human rights commissions, the resources needed to run the commissions should be provided by the state. Therefore, the financial aspect is also taken as an important part of whether or not a human rights commission is given international recognition as a national commission. But the Human Rights Commission Act, 2053 has failed to clearly specify that the state would provide enough financial resources, but instead it said that the Commission could receive financial resource from different sources. The government has not provided sufficient financial resource to the commission. Therefore, the commission has to make continuous efforts to gain funds from the government to go with the concept of national human rights body as stated in the Paris Principles and to use the fund according to its rules and processes.

7.2.16. Development of human rights culture

The Commission has been doing many promotional programmes on human rights to help in the creation of an environment for the development of human rights culture by disseminating human rights education. But when the budget provided by the government is not even enough to run the day-to-day administration of the Commission, running human rights programmes becomes a major challenge. Although the Commission has published

and distributed some materials related to human rights despite its limited resource and means, the role of the Commission in disseminating human rights education to meet the larger aim of developing human rights culture is a challenging one.

During this report period, the situation of human rights has failed to improve much from the previous reports. It has become urgently important for all sides to become highly sensitive to a situation when the overall situation of human rights would become disappointing with the increase of grave violation of human rights like extra-judicial killing, arbitrary oppression, illegal arrests, inhumane torture, disappearances and abductions if the present conflict can be transformed through peaceful means. Suppression or any other means that is beyond the law cannot be a way to control rebellion. A habit of respecting law and human rights must be developed. Therefore, provisions like evaluating the past, taking legal procedures against the guilty and provisions for protecting human rights and humanitarian law will be beneficial for the state. The people are waiting for peaceful resolution of the problem and assurance of the protection of human rights. The Commission is also convinced on this and believes that all sides will implement its recommendations. In this regard, the Commission has already sent to His Majesty's Government and the CPN (Maoists) a copy of the list of minimum steps they should take for the protection of human rights and respect for human rights principles and international humanitarian law.



Advices & Recommendations

8.1. Recommendations Made After the Supervision

8.2. Practical Suggestions presented to His Majesty's Government's

8.3. Minimum Immediate Steps for CPN-(Maoist) to respect International Humanitarian Law and Human Rights Principles



8.1. Recommendations Made After the Supervision

- 1) The Commission should send its reports of incidents of human rights violation to the Royal Nepal Army and police for their investigation. The reports of such investigation should be forwarded to the Commission which should then carry out necessary action in pursuance to.....out punish..... for the human rights
- 2) The commanding officers of the Royal Nepal Army and police should be given proper training regarding the related national laws, human rights and international laws relating to civil rights so that they can give further trainings in the barracks they are appointed to. A provision should be made by which the National Human Rights Commission can inspect such trainings as provided in the Royal Nepal Army, Nepal Police and the Armed Police Force.
- 3) The regional administrator, central district officer, district level official of the security bodies and the officials of the local judiciary bodies are recommended to be given trainings regarding human rights, civil laws and the relation of human rights in the judiciary system.
- 4) The cases of illegal detentions cannot be subjected to any kind of bargain or negotiation. So the state of all those people whose cases have been filed in the Commission and the court for arbitrary arrests and disappearance should be made public. The legal judiciary system of having the attorney to investigate within 24 hrs of arrest cannot stop the terrorist activities in the country as it is impossible to investigate any case within 24 hrs. Therefore the time for investigation should be extended.
- 5) Training programs regarding international treaties related to human rights, particularly those 16 international treaties to which Nepal is a state party, should be carried to the people at the lowest level.
- 6) Activities such as torture and killing of the innocent people, extortion and destruction of public properties and irresponsible and rampant explosion carried out by the non-state actor (the Maoist) should be stopped.
- 7) Various bodies of the government and the state, academics and intellectuals, professional organizations, human rights related organizations, foreign diplomatic offices in Nepal and the United Nations should be called upon for initiatives to be taken from their respective level for peace process.

8.2. Practical Suggestions presented to His Majesty's Government's

The National Human Rights Commission of Nepal has been making the government wary about its rampant violation of human rights in action to quell the present violent conflict. On 10 March 2004, the Commission had given some suggestions to His Majesty's Government regarding the immediate measures that it had to take for the protection of human rights. On 26 March 2004, HMG had also promulgated its 25 point commitments so as to comply with the human rights and the International Humanitarian Laws. In the view

for the effective implementation of those commitments, few practical suggestions have been presented here.

In some cases, the activities carried out by the security bodies of the government may equally be a crime that is punishable if committed by any general person. Such crimes may include torture, rape, murder, disappearance, using house appliances in the form of weapons of war along with mass punishment, abduction and rampant violence. These activities are considered as serious crimes according to the Convention against Torture (CAT) of which Nepal is a state party. In certain cases, such crimes can also be considered as international crimes and the person directly or indirectly involved with the crime can be punished in the international court of law. Time and again, the Commission has pointed out to the fact that the person leading the chain of command will be held responsible in case of any human rights violation committed by the person under his command. The Commission believes that the related institutions should reflect on these matters and develop a sense of responsible behavior accordingly.

The points mentioned below inside the box are the commitments reiterated by HMG on 26th March 2004. Unquestionably, rather than confining those commitments to papers, they should be brought down to practice. Therefore, the Commission urges HMG to execute these suggestions mentioned below:

1. *Every citizen should be assured and guaranteed with the protection of human rights regardless of their race, gender, language, religion, political faith and beliefs, social background, disability, riches or birth.*
2. *Every individual has the right to life, dignity and security. The right to life will be honored at any conditions. For this, the people who are ill, injured or captured or those who have surrendered or disengaged themselves with armed activities or not actively involved in such activities should be given protection and immediate orders for the implementation of covenant of Article 3 common to the Geneva.*

HMG should take the following steps immediately in order to implement the above commitments:

I. Protection from Execution

- a. HMG should confirm that those officials who regulate the law and order shall only use force only in the most necessary circumstances in the line of duty and to the extent required for the performance of their duty.
- b. As far as possible, the law enforcement officials who use force or firearms should opt for non-violent means before resorting to the use of force and firearms in carrying out their duty.
- c. HMG should elucidate that whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:
 - I. Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved.
 - II. Minimize damage and injury, and respect and preserve human life.

- III. Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.
 - IV. Ensure that relatives or close friends of the injured or affected persons are notified at the earliest possible moment.
 - V. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors in order that the independent investigation body required (below) is promptly initiated.
- d. It should be ensured that there will be a clear mechanism in the chain of command with responsible officials in hierarchy who can fully control and order, from those officials who make arrests, detains and imprisons to those who use force and firearms.
 - e. HMG shall ensure the prohibition of orders (from superior officers or public authorities) authorizing or inciting other persons to carry out executions. All persons shall have the right and the duty to defy such orders.
 - f. HMG shall ensure that effective protection through judicial or other means shall be guaranteed to individuals and groups who are in danger of execution and those who receive death threats.
 - g. In the cases of accusations regarding carelessness and misuse of the force and firearms, an effective, visionary, fair and impartial investigation should be ensured by the person who enforces law and order.
 - h. It should be ensured that an immediate action against those who are held responsible for any of the above mentioned activities will be taken as provided by the law in Nepal and that the jurisdiction has the full right and supports to the independent investigation body whose function is to punish the culprits.
 - i. Accessibility for an independent investigation body and legal procedure to the legal representatives of those who have become victims by the use of force or arms should be ensured.
 - j. HMG shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.
 - k. A criterion of rules and regulation should be set by the law enforcement officials regarding the rules of engagement and it should be informed to the concerned officer for its effective execution. This should be continuously reviewed as well.
 - l. In order to minimize the use of firearms, the law enforcement security officials should use shields, helmets, bullet proof vests and should have means of transportation.

2. Qualification, Training and Consultation

- a. All the officers of law and enforcement should be selected on the basis of suitable selection criteria and that they should be given regular professional trainings.
- b. While giving the training, the law enforcement institutions should train its officials with an attitude to use as minimal force and firearms as possible and by including police code of conduct, the alternatives to the use of force and firearms and the methods used in the human rights and investigative procedures, peaceful resolution of the conflict, the mob's psychology, and the techniques of negotiation, dialogues and arbitration and their technical solutions.

- c. HMG should ensure provision for compulsory consultation and adequate home leave to all those security officers who have been involved in violent clashes and encounters so as to maintain a normal state of their mind.

3. *No one will be subjected to any kind of arbitrary arrest or detentions. The means to discontinue unwarranted or arbitrary arrests and disappearances should be adopted.*
4. *The person arrested should be given the information with the reasons for his/her arrest as soon as possible. No one should be arrested during the time of night except otherwise provided by the law enforced. The information regarding the detainee's transfer and location of prison should be provided to the detainee's family members, legal representative and to all those apposite and suitable people who should have that information. Each and every prison should have a register which should include the information of all its detainees, their respective dates of detention and release and their transfer if any.*
5. *The right to fair trial and hearing will be honored and protected. The detainee will have the access to talk with his/her family, legal representative and any other person as provided by the law enforced. He/she also has the right to be present at the court for the hearing of his/her trial. The person also has the right defend his/her case or choose his/her legal representative.*
6. *Inmates will be put in their cells in accordance to their formal recognitions. According to these formal recognitions, they will be given sufficient food, clean drinking water, suitable place to stay and clothing, healthcare and sanitation facilities and security while in custody.*
9. *The detainees shall be given reliable evidence and guarantee of their dignity and rights while being released from the prison.*
10. *The habeas corpus given by the court as an effective legal remedy shall be honored. The information regarding the state of the detainee, his/her right to medical checkups and the right to have the knowledge about the officials under whose command he/she had been arrested and who had arrested him/her should be guaranteed. Any violation against these rights shall be punished as per the enforced law.*

In order to execute the above mentioned point no. 3, 4, 5, 6, 9, 10; HMG should immediately take the following steps:

An immediate and an effective action should be taken by legal, administrative, judiciary or other means in order to stop and end the cases of disappearances defying which proves that HMG does not acknowledges the cases of disappearances. In this regard, it is very important that the following steps be taken:

I. Arrests:

- a. The person who is being arrested should be informed about the reasons for his/her arrest at the time of arrest.
- b. It should be ensured that the information about the accusations to the arrested person will be given immediately.
- c. Arrests should only be made if a capable officer gives a written order for making such arrests legally.

- d. The identity of the officer who makes such arrests should be clearly mentioned.
- e. No one should be arrested with the view of intimidation.
- f. No one should be arrested except for those who are caught in the act of crime during the night.

2. Detention:

- a. It should be ensured that no one will be detained in an undisclosed location.
- b. Any person arrested should be presented in front of the officer who has been given the rights as enforced by the law and there should be an instant hearing of his/her detention.
- c. The correct information regarding the detention of such people, their whereabouts and their transfer of prison if any, should be disclosed to their families, legal representatives and other officially recognized persons.
- d. The detained person should be given the right to choose his/her legal representative and he/she should be ensured the right to communicate and discuss with such representatives in open or in private.
- e. In order to guarantee an effective improvisation of the right to habeas corpus, an immediate step should be taken.
- f. It should be ensured that anyone who is involved in the activities that infringe the above rights will be punished under the enforced law.
- g. It should be ensured that there would be an intensive awareness campaign to the general people and especially to those officials of the prisons regarding the protection of the above standards.
- h. It should be ensured that a provision is made for accessibility of the NHRC and other capable institutions to the sites of imprisonment and other possible locations of prison by the army, armed police force, civil police and other officials.
- i. It should be ensured that the events of disappearance made under the orders or direction of any civic or military institutions or any public related institution is not a judicial proper process and so such orders and directions can be ignored by the security personnel. The security personnel should be informed about this provision in the law.
- j. There should be a provision for the strict supervision of the entire law and enforcement officers under the chain of command of HMG who have used force and firearms, arrested, captured detained and transferred detainees.
- k. Taking the gravity of cases for disappearances into account, it should be ensured that those convicted for such acts should be punished as per the criminal law.
- l. Official details of all the detained persons should be placed at the detention centre in the following manner:
 - I. The name and identification of the official who has issued the orders for detention.
 - II. Detainee's name, identification and the reason for his/her detention.
 - III. The duration of detention, the time and date of detention and release.
 - IV. The date and time of being presented to the legal representative.
 - V. The state of detainee during his/her release and the date and time of his/her transfer.
 - VI. The medical report of the detainee before being detained.
- m. The documents should be provided to the NHRC and other capable institutions or to those officially recognized person if they are made available.

- n. Detainees should be acquitted in front of a legitimate court and while in their release, a legally reliable document indicating the medical and psychological state of the detainee should be kept.
- o. Any officials accused for the infringement on any of the above mentioned activities must be suspended from his/her post during the period its investigation. The hearing of such cases should not be through any military courts but through normal courts. During such hearings, no form of special rights, facilities or compromise in punishment should be accepted.
- p. It should be ensured that the officials who commit the above mentioned crimes will not be acquitted under any kind of special law, military justice system or through any other means or forgiveness.
- q. It should be ensured that those people and their family who have been persecuted with disappearance, unwarranted and arbitrary arrests have the right to get absolute resettlement if possible or adequate compensation. It should also be ensured that in case death during disappearance, the dependents of the deceased shall be adequately compensated a visionary manner.
- r. No one should be kept in places like the army barracks while detaining him/her as per the enforced law. It should be ensured that such people would be kept at respectable places under the civil administration.

7. The accused will have the right to free and fair trial within a suitable period of time and will also have the right to such trial from a competent court.

11. No one will be trialed more than once or be punished twice for the same crime.

Only the competent court will be given the right to convict the accused in accordance to the judicial system.

The following steps should be taken by HMG to implement the commitment no. 7 and 11:

- 1. Everyone is equal in front of the rule of law. In case of making any decision regarding military allegation to anybody or making decision regarding anyone's rights and obligations in any legal cases, such persons should be ensured a competent, free and fair trial from legally enforced judicial institution.
- 2. It should be ensured that anyone who is accused of any military allegation should be considered not guilty until his/her accusations are not proven as provided by the law.
- 3. Anyone who falls under the military accusations should be ensured the minimum rights which are as follows:
 - a. The accused should be provided with the optimum information regarding the nature and basis of his/her accusation in the words best understandable to him/her.
 - b. Sufficient time should be given for the defense of the accused person.
 - c. There should be a provision for the hearing of the trial without illicit delays.
 - d. In case the accused person does not have sufficient financial means to afford any legal assistance, then there should be a provision for a free legal assistance for such people.
 - e. The right to depose one's witness and to test the witness against one's case should be ensured.
 - f. If the accused person does not understand or cannot speak the language used inside the courtroom, then a free provision of a translator should be ensured.
 - g. No one should be forced to give statement against any person.

4. A method should be decided to rehabilitate the accused person if in case the accused person falls under the category of children.
5. It should be ensured that each and every person convicted will have the right review his/her case from the higher level judicial institution as prescribed by the law.

8. *The accused person detained in prison will not be subjected to any kind of mental or physical torture, or heinous, inhumane or degrading treatment or punishment whatsoever. Any detainee persecuted by such treatments will be given sufficient compensation as prescribed by the law and the person responsible for such mistreatment shall be taken action against.*

The following steps should be taken by HMG to implement the commitment no. 8:

1. The government should promulgate the banning of torture and other atrocious, inhumane, degrading treatment.
2. HMG should provide with sufficient nutrition, clean drinking water, fresh air, open space and proper clothing and central heating system and if necessary or if requested should provide medical practitioner to take care of the detainee and give him/her the physical and psychological security.
3. It should be ensured that the detainee will only be kept with other criminals if convicted and shall be kept separately in any other case.
4. HMG should ensure the right to have accessibility to visit everyone and every nook and corner in the prison including all its records and documents without any prior information regarding the visit to the prison authorities and without any hindrance by the prison authorities to the NHRC and other authorized institutions. There should be a regular inspection in the prison through capable medical practitioner.
5. Prohibition of torture and other related similar activities or making them illegal as per the international law by HMG will not only be sufficient. HMG should review the current system proven to be inadequate for the prevention of such violation and apply the following:
 - a. Initiatives should be taken to ensure an effective, prompt, independent and visionary investigation against people accused for torture, atrocities, inhumane and degrading treatment.
 - b. It should be ensured that the convicted shall be punished as per the definition in the international level for torture, atrocities, inhumane and degrading treatment even if he/she is a civil officer or any other officer working for the state.
6. The process of filing complaints against those who carry out the acts of torture, atrocities, inhumane and degrading treatment should be made effective. Immediate and fair investigation by the authorized body should also be ensured.
7. It should be ensured that these standards are met in any directions and trainings given to any army man, law and enforcement officer, medical practitioner, or any other officer who is involved in making arrests, or handling the prisoners.
8. It should be ensured that there are no accessories as such kept inside the prison that can be used for torture or mistreatment of the prisoner.
9. It should be ensured that the medical practitioners and the jurist will have the access to supervise the prisoner if necessary along with the prisoner's family members, who should have access to the prisoner immediately, at regular intervals.

12. *Every citizen has the freedom to travel throughout the country and to live anywhere that he/she chooses. The right to return to one's house or to live where one chooses shall be ensured for the displaced people.*
13. *The supply of food, medicine, and all the other things associated with basic human needs shall be ensured throughout the country.*

The following steps should be taken by HMG to implement commitment no. 12 and 13:

1. On its visit, the Commission has been informed that the security force has used the land and accommodations of the general people without even giving them compensation of any form. HMG should not use the accommodations and property of such people by force unless if it is for the protection of their life and property.
2. It should be ensured at no reason will there be any kind of obstruction for transporting food and medicine.

15. *Every person will have the freedom to opinion, expression and religion. Such freedom will include offering prayings and follow the religion and beliefs that one chooses. Everyone will have the right to freedom of expression as provided by the prevailing law. Such rights will include seeking and receiving all kinds of information and broadcasting them.*
16. *Everyone will have the right to establish an organization in partnership with other people as provided by the prevailing law. Barring the arms and ammunitions, everyone will have the right and freedom to gather peacefully. Every citizen will have the right take part in public activities freely through the elected representatives.*

The following steps should be taken by HMG to implement commitment no. 15 and 16:

1. The right to have freedom of expression by anyone should be respected. Necessary steps for the protection of journalists should be taken.
2. The freedom of expressing or receiving all kinds views and information through oral, written, or in any published or artistic way or through any medium as per the person's choice should be protected.
3. The freedom to gather peacefully should be respected. The right establish trade union or to joint one for his/her own benefit should be protected.
4. The following rights and opportunities should be ensured without any discrimination or illicit prohibition.
 - a. One should be allowed to participate in public activities directly or through elected representatives.
 - b. The right to choose one's candidate through confidential voting and to take part in the election should be ensured.
 - c. All the public service sectors should be accessible to everyone on the basis of equality.

14. *Educational institutes should be recognized as "peace zones" and activities that will disturb the education and peace inside such premises shall not be let go with impunity.*
17. *Women and Children will have the special right of protection. Women and children rights shall be protected at all costs. International treaties like Convention on Elimination of All*

Forms of Discrimination against Women (CEDAW) and Convention on the Rights of the Child (CRC) shall be respected. All the related mechanisms should be improved in order to stop such discriminations.

The following steps should be taken by HMG to implement commitment no. 14 and 17:

1. Protection of Children's Right

- a. It should be ensured that every child will get the protection from his/her family, society and the state on the basis of his race, gender, language, religion, national and social origin, property and birth without any form of discrimination.
- b. It should be declared immediately that schools shall be treated as peace zones.
- c. Any activities unrelated with the education should be prohibited inside the school premises or the school building.
- d. No form of military activities should be conducted inside the school premises.

2. Protection of Women's Right

- a. Women's representation should be increased in the process of conflict prevention, management and resolution and peace.
- b. Policies should be made to increase the representation of women at various public sectors.
- c. Special remedy should be followed in order to protect women and children from violence that occur because of gender issues.
- d. Effective mechanism should be there to take legal actions for crimes related with sexual and other violence against women and children.
- e. Women and girls should be given attention regarding their special needs during the process of disarmament, separation from the group and rehabilitation.

18. People who believe in the principle of human rights and various groups, NGOs and other human rights activists who are involved with the execution of the International Humanitarian Law will be protected.

The following steps should be taken by HMG to implement commitment no. 18:

1. The human rights and humanitarian NGOs and other NGOs should not be subjected to any form of fear, threats and intimidations.
2. It should be ensured that the NGOs related to human rights will be given the freedom and access to travel throughout Nepal without any objection.
3. HMG should have the provision to respect or to make everyone respect all the human rights activists as mentioned in the UN manifesto regarding the protection of human rights.

19. Continuity shall be given to the trainings of the security bodies regarding human rights and the International Humanitarian Law.

The following steps should be taken by HMG to implement commitment no. 19:

It should be ensured that HMG will give training to any person who is involved in enforcing the law or army men or any other person who has the responsibility of civic leadership regarding human rights in the context of Nepal and its responsibility and especially in executing the above mentioned suggestions.

20. Any law imposed in this regard against terrorism will be valid in accordance with the International Human Rights as well.

The following steps should be taken by HMG to implement commitment no. 20:

Many provisions enacted in the Terrorist and Disruptive Activities, Control and Punishment Ordinance (TADO) 2001/2002 contravenes the fundamental rights enshrined in the Constitution of the Kingdom of Nepal, 1990. So immediate measure should be taken to stop such provisions and it should also be ensured that the security forces will be effectively under the control civil administration in accordance to the democratic principles.

21. Appropriate mechanism should be established by HMG in order to monitor the past violations of human rights and the International Humanitarian Law and to do necessary assessment so as to find out its solution.

The following steps should be taken by HMG to implement commitment no. 21:

1. Such proposed mechanisms should immediately be established after receiving the suggestions from the NHRC.
2. Various issues raised by the NHRC from the past several years for the protection and promotion of human rights should be addressed in a proper way. In this regard, HMG should immediately inform the NHRC about its provisions.

22. HMG should give full cooperation in order to guarantee the state and place of those people who have been said to be disappeared. There should also be a continuous support to the International Red Cross regarding accessibility to each and every place in the prison.

The following steps should be taken by HMG to implement commitment no. 22:

1. It should be ensured that people will not be disappeared on the account of armed conflict and that any person found guilty for such activity will be punished as per the existing law.
2. The efforts to search the disappeared people and integrate them with their family members should be made efficient as per the responsibility and international commitments made by Nepal.
3. There should be an independent and efficient investigation regarding the state and condition of the disappeared people. An efficient mechanism should be made to enquiry about the disappeared people; whether they are dead, injured or whether their bodies have already been buried. It is very necessary to do the above work in the following manner:
 - a. There should be an easy accessibility regarding the give and take of information in the inquiry about the families that have been disintegrated and displaced as a result of the

- conflict. In this way, such people should be helped to integrate with one another by rehabilitation and reunification.
- b. The means to identify the law and enforcement officers should be made available.
 - c. In order to minimize the number of the people disappeared; it should be ensured that the remains of the dead body will be kept in a sensible manner. HMG should try to collect materials and human remains that would help to recognize the dead body for its identification and should prevent any activities that would destroy such evidences of identification. These remains of the dead bodies should either be returned to the close relatives of the deceased or should be given an honorable burial.
 - d. International Red Cross and various other organizations working in these sectors of humanitarian services should be encouraged.
 - e. The true information about the place where the body of the dead person had been buried, the indication of his/her burial place and the list of other items buried along with the dead body should be mentioned and made available.
 - f. The affected family should be helped out. The family of the disappeared person will have the right to know the whereabouts of their family member. It should also be ensured that they will also get assistance while receiving their right to pension and other similarly related rights.

23. *In order to simplify the monitoring and investigation process of human rights by the NHRC and to execute the suggestions given by the Commission, a high level human rights protection committee should be formed. Such committee shall supervise the performances of the government institutions in the following tasks:*

- a. *Investigating cases on the human rights violation and convicting the responsible person.*
- b. *Compliance with the law regarding imprisonment.*
- c. *Protection of human rights of all the people who comes in contact with the security force.*
- d. *Immediate release of those people who are under unwarranted or arbitrary arrests.*
- e. *Instant implementation of court's orders and decisions.*
- f. *Necessary legal action against those accountable for the violation of human rights.*
- g. *Recommendation of compensation for victims.*

25. *HMG should have provision to prevent the violation of the above mentioned human rights stipulations and to make those people responsible for the violation accountable.*

The following steps should be taken by HMG to implement commitment no. 23 and 25:

1. Keeping in view the intensity and seriousness of the problem faced by Nepal regarding human rights, the suggestions forwarded by the NHRC should be executed with a vision, effectiveness and promptness. HMG should inform the Commission regarding the improvements in the execution of its suggestions.
2. The victims of human rights violation from any high level official or any other person should get an effective treatment.
3. It should be ensured that the person claiming for treatment shall have the right to receive an effective treatment from an expert officer.
4. Judicial remedies shall be carried out by expert officers only. The habeas corpus, other orders of the court and the execution of the court's orders should be ensured.

5. It is very essential that HMG give special attention to the followings:
- a. Qualified people should be selected fairly and freely while choosing members of an institution for any investigation. Such institution for investigation shall have the rights to have every kinds of information necessary for the investigation and such institution should investigate in accordance to the minimum international standards.
 - b. Necessary financial resource and technical equipments should be given for an effective investigation to the person who is investigating. They should have the right to have access to the accused person and take their testimonials and other detail statements. This provision is applicable in the case of witness as well.
 - c. The dead body of any person should be post-mortem before any kinds of funeral by a medical practitioner who must also be an expert on medical science and should be aware of rules and regulations of the law. The official who does the post mortem should have the right to know every detail information regarding the location where his/her body is found and where he/she is believed to have been dead. If in case the body is buried and it is thought necessary to take out the body, then the body should be taken out immediately in a proper way. If the remains have been reduced to skeletons, then it should be extracted with enough attention and should be studied in the forensic laboratory.
 - d. The dead body should be made available to the forensic expert throughout the period of investigation. The post mortem should give the least idea about the person's identity and the cause of his/her death and if possible the time and place of death. A clear and color photograph of the deceased should also be included in the post mortem report so as to justify the records and findings of the forensic investigation. The post mortem report should include all kinds of injuries sustained by the deceased. Any clue of torture to the deceased should also be mentioned.
 - e. In order to obtain free and fair results, it should be ensured that the official who conducts the post mortem shall be the person who is not involve in any kinds of crime, group or organization and who is able to work in a free and fair environment.
 - f. Protection should be given to the complainant, witness, investigating officer and their families against any kinds of violence, threats and other forms of intimidations.
 - g. The family of the victim and his/her legal representatives should be informed about any kinds of hearings and other notices regarding the investigation. Once the dead body is identified, a notice should be issued regarding the deceased and his/her family or relatives should be informed immediately. The body should also be returned to the family members after the investigation is over.
 - h. The report of the investigation should be promulgated immediately. In it, the following should be mentioned such as: the area of investigation, its procedure and the techniques used for evidence validation, the received facts and the conclusion and suggestions drawn in accordance to the enforced law.
 - i. It should be ensured that no person convicted for war crimes, invasion, or jeopardizing the public life or murder shall be acquitted or given impunity.
 - j. It should be ensured that the families and dependents of those whose human rights have been violated in any ways mentioned in the above sections will receive appropriate compensations.
 - k. There should be a mechanism for international investigation in special circumstances of the above cases.

24. HMG should provide the following necessary support to the NHRC:

- a. Receive communication from any individual, group of individuals or body (Source) in Nepal or elsewhere, containing reports of human rights violations. The NHRC may choose to investigate any allegation, with or without a formal complaint, or on its own initiative. Where there may be the basis for criminal prosecution, allegations considered by the NHRC are passed as appropriate, to the relevant national legal structures.
- b. The NHRC may also monitor the effectiveness of investigations carried out by other national bodies or institutions and it may also provide and caution various other institutions regarding the provisions of law in human rights.
- c. Visit any institution or bodies under HMG or any place, institution or establishment freely and without prior notice and make recommendations to HMG for the improvement of physical and other facilities of prison and protection of human rights.
- d. Giving crucial suggestions to HMG regarding the solution for an efficient execution for human rights and reviewing the legal provision it.
- e. Suggestions regarding the compliance and commitments of human rights treaties in international level, their effective implementation and reports that have to be presented in accordance to those treaties.
- f. To conduct research and studies on the subjects related to human rights; to plan and carry out educational and information campaign for the promotion of human rights; and to encourage NGOs working in the areas of human rights.
- g. To review the prevailing situation of human rights in Nepal.
- h. To establish the NHRC's own institution so as to inspect the human rights commitments, whether they have been respected or not, especially the rights to live and life, security from dismemberment, individual freedom, legal procedure, freedom of expression, freedom to open organizations and institutions, and interrogations regarding children, domestically displaced people, discrimination against other possible groups of people and their situation.
- i. To enhance its capability in the central level and extend its connectivity in the regional level.
- j. To ensure free movement throughout the country for the NHRC representatives without prior notice, including to all places suspected of being places of detention and to interview freely and privately to any individual, groups of individuals, officials or members of bodies or individuals.
- k. To ensure the security of the staff or other representatives of NHRC and of such persons who have provided with information, testimony or evidence of any kind.
- l. To give the earliest consideration to any recommendations and information made by the NHRC to the HMG regarding the protection of human rights.
- m. Where there may be a basis for criminal prosecution, allegations considered by the NHRC are passed as appropriate to the relevant national legal structures.
- n. In order to carry out its statutory duties like investigation and interrogation in the most reliable, impartial and autonomous way, various national and international organizations like UN should be encouraged to co-operate with the NHRC.

The following steps should be taken by HMG to implement commitment no. 24:

- I. The detailed and correct report should be made available to the NHRC regarding the execution of suggestions and recommendations as provided by the Commission and they should also be updated at regular intervals.

2. Adequate financial and physical resources should be made available to the Commission so that it could execute its mentioned plan of action effectively and efficiently.
3. The Commission should work in corporation with UN, various other organizations and institutions and donor countries. In regard to this, the Commission should immediately be acquainted with the technical assistance from the Office of the United Nations High Commission for Human Rights (OHCHR) for efficient and effective monitoring of human rights.
4. The urged made by the Commission to HMG for inviting the UN Rapporteur to Nepal in regard to unlawful killings, acts of disappearances and torture should be immediately implemented.

8.3. Minimum Immediate Steps for CPN-(Maoist) to respect International Humanitarian Law and Human Rights Principles

This document has been prepared by the National Human Rights Commission as a comprehensive set of recommendations to the Communist Party of Nepal - Maoist (hereafter referred to as “ the CPN-M”) to respect international humanitarian law and human rights principles. It also draws on various statements of NHRC’s urging the CPN-M to prevent abuses of human rights and CPN-M’s statement dated 16 March 2004 reaffirming its commitment to respect Geneva Conventions as well as human rights.

The NHRC is an independent and autonomous body established according to the Human Rights Commission Act 1997. The Commission has the legal authority to carry out human rights protection and promotion works as well as other activities related to human rights. It is also an internationally recognized body as endorsed by the General Assembly in resolution 48/134 of 20 December 1993 recognizing the role of a national human rights institution for the protection and promotion of human rights. This document has therefore been prepared by the Commission on the course of fulfilling its responsibilities and obligations as a national human rights institution.

On the basis that the CPN-M should also bear responsibility on human rights issues, the Commission has repeatedly criticized the CPN-M for the human rights abuses committed by them. The Commission therefore believes that it is important to emphasize the fact that the CPN-M’s governing behavior in the armed conflict should be within the boundaries of human rights principles.

The Commission also wishes to draw attention to the fact that criminal responsibility may be incurred by those who tolerate or acquiesce to acts of human rights abuses or by those who should have prevented such abuses.

As such, even as an armed political opposition group, the CPN-M must respect the international humanitarian law as well as human rights principles. In this context, the minimum steps applicable to the CPN-M for the immediate implementation of respect for international humanitarian law and human rights principles are described below:

I. Command Structure

- 1.1 The CPN-M must meet the requirements established by international humanitarian law and maintain a command structure that is responsible for the group's conduct and behavior.
- 1.2 The CPN-M must ensure the establishment of an effective system that prevents crimes such as torture, rape, non-combat killings, hostage taking, kidnapping extortion and attacks on non-military targets.
- 1.3 As international criminal responsibility may be incurred by those in the leadership level of CPN-M who tolerate or acquiesce in such acts or who should have prevented them, the CPN-M must ensure the establishment of a system that prevents such acts.

2. CPN-M's effective implementation of Article 3 common to the Geneva Conventions applicable in the present context:

- 2.1 Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.
- 2.2 The following acts are, and shall remain prohibited at all times:
 - Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
 - Taking of hostages;
 - Attacks on personal dignity, in particular humiliating and degrading treatment;
 - The passing of death sentences and carrying out executions;
 - Destruction or damage of public infrastructure;
 - The use of human shields;
 - Killings of non-combatants and retired security personnel; and
 - Attacks on security personnel uninvolved in the conflict or security personnel on home leave or retired security personnel.

3. Freedom of movement and humanitarian relief

CPN-M will respect the right of liberty of movement and freedom of every individual to choose his/her residence. Entire communities have been found to be arbitrarily labelled as 'enemy sympathizers' by CPN-M and the allocation or withholding of essential humanitarian aid have been used as an instrument of unlawful collective punishment, which need to be prevented. As such, the CPN-M should immediately take the following necessary steps:

- 3.1 Ensure that the victims of the conflict who have suffered from the actions of either party to the conflict are recognized according to objective needs; and
- 3.2 To respect free movement of, and unhindered access to, humanitarian aid agencies in all parts of the country with priority given to distribution of food, medical care and the provision of essential services such as vaccination of children, ambulance and fire brigade to the populations most in need.

4. Protection of the human rights of women

CPN-M shall fully respect the human rights of women. Specifically, the CPN-M is recommended to:

- 4.1 Adopt special measures to prevent gender-based violence by its combatants;
- 4.2 To respect free movement of, and unhindered access to, humanitarian aid agencies in all parts of the country with priority given to distribution of food, medical care and the provision of essential services such as vaccination of children, ambulance and fire brigade to the populations most in need; and
- 4.3 Ensure the participation of women in negotiation and implementation of peace agreements, as well as in rehabilitation and reconstruction efforts.

5. Protection of the human rights of children

The recruitment or use of children in armed conflict is not justified under any situation and the CPN-M should accept this as mandatory. The demobilisation of children should not be made subject to conditionality by the CPN-M it and should take place immediately.

In this regard, the NHRC calls on the CPN-M to:

- 5.1 Ensure that they do not, under any circumstances, use in hostilities persons under the age of 18 years;
- 5.2 Ensure that they immediately demobilize or release into safety children already being used as soldiers;
- 5.3 Ensure that the schools are treated as a peace zones and no non-school related activities should be conducted within school land or buildings;
- 5.4 Ensure that abduction of children for any purpose must be immediately and strictly prohibited;
- 5.5 Assist in the process of reintegration of former child soldiers in their education, vocational training, income-generating activities and trauma counselling, taking into consideration their material, physical, psychosocial and spiritual interests;
- 5.6 Make a public commitment to provide necessary assistance to civil society and organizations undertaking family reunification and full social rehabilitation activities and not hinder their activities.

6. Confiscation of property and forced donations and levy:

The CPN-M shall not confiscate the private property of people. It will also ensure that collection of forced 'fees', 'charges', 'donations' or 'levy' as well as confiscation of property by its cadre and combatants are prohibited in the future.

7. Forced recruitment:

The CPN-M shall make a public commitment that it will prevent the intimidation of the civilian population, kidnapping and hostage taking and ensure that such activities will not be undertaken by the CPN-M.

8. Information on fallen combatants

The CPN-M shall keep proper records of its fallen combatants and cadres and inform the family members of the deceased of the deaths in a very timely manner.

9. Indiscriminate use of landmines and explosive materials:

The CPN-M has indiscriminately used landmines and other kinds of explosive materials, placing them around private houses, on farms, trails and roads used by the general public, thereby causing the deaths or maiming of non-combatants. The leadership of the CPN-M must therefore ensure the prevention of such indiscriminate acts.

10. Protection of the rights of the internally displaced

The CPN-M shall respect the rights of the internally displaced, as per the UN Guiding Principles on Internal Displacement. As such, the CPN-M shall ensure that:

- 10.1 Freedom of movement of displaced persons and returnees are respected;
- 10.2 Those displaced have an effective right to return to their original residence wherever possible, or to an adequate place of their own choosing in the vicinity of their former home or elsewhere within the country; and
- 10.3 No fees or charges will be levied on the returnees.

11. Freedom of expression, assembly and association

The NHRC has found that the CPN-M has been involved in the execution and kidnapping of journalists, political party workers, teachers, other professionals and several unarmed civilians. In this regard, the NHRC emphasises the political and military leadership of the CPN-M bear its responsibility and respect the following:

- 11.1 Everyone has the right to hold opinions without interference and the CPN-M should take the necessary steps to respect the effective enjoyment of this right;
- 11.2 Everyone has the right to freedom of expression; this right includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
- 11.3 Everyone has the right to freedom of association with others.

12. Human Rights Monitoring Compliance

The Commission calls on the CPN-M to assist in the human rights monitoring work as follows:

- 12.1 Avoid prejudice to the Commission's existing mandate on the full spectrum of human rights;
- 12.2 Provide, as expeditiously as possible, whatever information may be required by the NHRC in fulfillment of its statutory duties;
- 12.3 Guarantee the security of the staff or other representative of the NHRC where appropriate and of such persons who may have provided it with information, testimony or evidence of any kind and to ensure that any ill-treatment, intimidation, threat or reprisal or any other form of interference with the work of the NHRC is prevented;
- 12.4 Ensure the inviolability of the offices, premises, vehicles and materials of any kind belonging to the Commission and also ensure respect for any confidential communications (whether oral or in writing) belonging to the Commission.

13. Cooperation in the fulfillment of the Commission's responsibilities:

The NHRC calls on the CPN-M to cooperate with the exercise of the NHRC powers to:

- 13.1 Receive communications and information on human rights violations from any individual, group of individuals or body, or carry out investigation on its own initiative. The findings of the investigations may be made public, when appropriate, or passed to the relevant national or international legal structures, when appropriate, the NHRC may also monitor the effectiveness of investigations carried out by other national bodies or institutions;
- 13.2 The Commission may visit and inspect any place or institution freely and without any prior permission;
- 13.3 The Commission may hold public hearings on the issue of human rights violations in any part of the country;
- 13.4 The Commission may interview freely and privately any individual, group, official, institutions or members of bodies or institutions;
- 13.5 The Commission may collect relevant information by any means it deems appropriate;
- 13.6 The Commission may compel attendance of witnesses and production of relevant documents or other material;
- 13.7 The Commission may use the media to the extent useful for the fulfillment of its mandate;
- 13.8 The Commission may make its reports public in a periodic basis; and
- 13.9 The Commission may expand its staff or other representatives and offices as it deems necessary.

The implementation of the minimum steps shall not affect, as per international law, the legal status of the CPN-M in the armed conflict.



Annex I



राष्ट्रिय मानव अधिकार आयोग

मानव अधिकार आयोग ऐन २०५३ अन्तर्गत स्थापित

मिति : २०६०/५/२५

प्रेस विज्ञप्ति

राष्ट्रिय मानव अधिकार आयोगको मिति २०६०/५/१९ को निर्णयअनुसार युद्धविराम भई आचारसंहिता समेत स्वीकृत भएको अवस्थामा रामेछापको दोरम्बा, पाँचथरको नागी, तथा सिरहाको धनगढीमा भएका घटनाहरूको छानविन गर्नको लागि गठन गरिएका समितिहरूले छानविन पछि पेश गरेका प्रतिवेदनहरूका आधारमा विभिन्न निर्णयहरू गरी श्री ५ को सरकार समक्ष आयोगका अध्यक्ष नयनबहादुर खत्रीले आज प्रधानमन्त्री श्री सूर्यबहादुर थापालाई एक पत्र लेखी आयोगका सुझावहरूको कार्यान्वयनका लागि अनुरोध गर्नुभएको छ।

रामेछापको दोरम्बाको घटनाका सम्बन्धमा प्राप्त प्रतिवेदनबाट दोरम्बा वजार नजिकैको डडुवा गा.वि.स.मा पर्ने युवराज मोक्तानको घरमा मिति २०६०/४/३२ गतेका दिन माओवादीहरूको बैठक भइरहेको अवस्थामा करिब दिनको १०:३० बजेको समयमा सेनाले घेरा हाली गोली चलाउँदा कतिपय व्यक्तिहरू भागी गएका, एकजना टेकबहादुर भन्ने व्यक्तिको सोही घर नजिक मृत्यु भएको र अन्य १९ जनालाई सेनाले आफ्नो कब्जामा लिई गएकोमा उक्त घटनास्थलबाट २-३ घण्टा टाढा पर्ने डाँडाकटेरी भन्ने स्थानमा दिनको २:३० बजेको समयमा पक्राउ परेका व्यक्तिहरू मारिएको अवस्थामा भेटिएको देखिन्छ। आफ्नो कब्जामा लिइसकेका व्यक्तिहरू मारिने कार्य देशको संविधान तथा विद्यमान कानूनप्रदत्त अधिकारहरूको हननको कार्य हो र यस्ता क्रियाकलापले जेनेभा कन्भेन्सनको साफा धारा ३ मा उल्लेख भएको अन्तर्राष्ट्रिय मानवीय कानूनको प्रावधानको पनि ठाडो उल्लंघन भएको छ। उपरोक्त घटनाको स्वतन्त्र र विस्तृत अनुसन्धान गरी दोषीलाई आवश्यक कारवाही तथा पीडित परिवारलाई उचित राहतको साथै यस्ता घटनाहरू पुनः दोहोरिन नदिन आवश्यक सतर्कता अपनाउन, सरकारले सुरक्षा निकायलाई सचेत गराउन राष्ट्रिय मानव अधिकार आयोगले सरकार समक्ष सिफारिस गरेको छ।

२०६०/४/२० गतेका दिन करिब २:३० बजेतिर पाँचथर जिल्लाको नागी गा.वि.स. स्थित निगाले भन्ने ठाउँमा ३५ जना सुरक्षाकर्मी, ट्रकका चालक, खलासी र एक जना सर्वसाधारणसहित चढेको ना.१.ख.७६९९ नं. को गैरसैनिक ट्रकलाई सर्वसाधारण हिँडडुल गर्ने र सार्वजनिक सवारी साधनको आवागमन हुने मूल मार्गमा नै माओवादीहरूले एम्बुस थापी विस्फोट गराउँदा ५ जना सैनिक तथा एक जना गैरसैनिक (चालक) को मृत्यु भएको र अन्य २३ जना घाइते भएको भन्ने देखिएको छ। ताप्लेजुङ्ग जाने ३ जना सैनिक जवानलाई ताप्लेजुङ्गको सीमाना कावेरीसम्म सुरक्षित पुऱ्याउने समेत उद्देश्यले हिँडेका सैनिक टोली निजहरूलाई पुऱ्याइ फर्कदा चालक मोहन श्रेष्ठले चलाएको उक्त खाली ट्रक जोर पोखरीतर्फ फर्कन लागेको देखी सेनाले अनुरोध गरी उक्त ट्रकमा सवार भई जाँदा त्यहाँ उक्त घटना भएको भन्ने देखिन्छ।

त्यस्तै सिरहाको धनगढीमा २०६०/५/२ गते बेलुकी ५.०० बजेको समयमा आफ्नो ड्यूटी सकी हटियामा तरकारी किन्न भनी गएका प्रहरी सहायक निरीक्षक गणेशप्रसाद दाहाल र प्रहरी जवान श्यामनारायण यादवसमेत तरकारी मोलमोलाई गरिरहेको अवस्थामा माओवादीहरूले ठूलो संख्यामा सर्वसाधारणको उपस्थिति रहेको हटिया जस्तो सार्वजनिक ठाउँमा गोली हानी हत्या गरेको भन्ने देखिएको छ। मारिएकामध्ये प्रहरी जवानसँग कुनै हतियार समेत नभएको भन्ने खुल्न आएको छ।

पाँचथर तथा सिरहा जिल्लामा ने.क.पा. (माओवादी) बाट घटाइएका दुवै घटनाको बारेमा दुवै क्षेत्रमा गएको भिन्नाभिन्नै अनुसन्धान समितिहरूले आफ्नो प्रतिवेदनमा उक्त घटनाहरू युद्धमा प्रत्यक्ष संलग्न नभएको अवस्थामा सुरक्षाकर्मीहरूप्रति नियोजित लक्ष्य गरी घटाइएको घटना भएको र दुवै घटनामा सर्वसाधारणलाई समेत आक्रमण गर्दा लक्षित गरेको पाइन्छ। नागीको घटनामा सर्वसाधारण आवतजावत गर्ने सार्वजनिक बाटोमा एम्बुस थापी गैरसैनिक ट्रकमाथि एम्बुस पड्काई आक्रमण गरिएको छ भने धनगढीमा हाटबजार जस्तो सर्वसाधारणको भीड भएको स्थानमा तरकारी किन्न लागेका निशस्त्र प्रहरी जवानमाथि आक्रमण गरिएको पाइन्छ। उक्त दुवै घटनामा ने.क.पा. (माओवादी) ले आचार संहिताको घोर उल्लंघन मात्र होइन जेनेभा कन्भेन्सनको साफा धारा ३ को उल्लंघन गर्नुका साथै व्यक्तिको बाँच्न पाउने अधिकारको समेत ठाडो उल्लंघन गरेका छन् भन्ने आयोगको ठहर रहेको छ। आयोगले दुवै घटनाबाट पीडित व्यक्तिका परिवारलाई अविलम्ब राहतको लागि सरकार समक्ष सिफारिस गरेको छ। आयोग ने.क.पा. (माओवादी) बाट भएको उपरोक्त घटनाहरूका सन्दर्भमा २०६० बैशाख ८ गते डा. बाबुराम भट्टराईको नेतृत्वमा राष्ट्रिय मानव अधिकार आयोगमा आएको ने.क.पा. (माओवादी) वार्ता टोलीले मानव अधिकारको संयुक्त राष्ट्र संघद्वारा प्रतिपादित सिद्धान्तहरूप्रति समेत प्रतिबद्धता जनाइसकेको अवस्थामा त्यस पार्टीद्वारा घटाइएका विभिन्न घटना विशेष गरी व्यक्ति हत्या, सार्वजनिक सम्पत्तिको लुटपाट तथा संरचना ध्वस्त पार्ने गतिविधिहरू निन्दनीय र मानव अधिकार तथा मानवीय कानून विपरीत क्रियाकलाप भएको आयोगको ठहर छ।

आयोगले तीन जना सर्वोच्च अदालतका भूतपूर्व न्यायाधीशको संयोजकत्वमा गठित अनुसन्धान समितिहरूले प्रस्तुत गरेको प्रतिवेदन श्री ५ को सरकारबाट आवश्यक कारवाहीको लागि आजै प्रधानमन्त्री समक्ष पठाएको छ। आयोगका अध्यक्षले आज प्रधानमन्त्रीलाई लेखेको पत्रमा द्वन्द्वको समयमा पनि सर्वसाधारण जनताको मानव अधिकारको संरक्षणको लागि मानव अधिकार सम्झौताको आवश्यकताप्रति ध्यानाकर्षण समेत गरिएको छ।

(कदारप्रसाद पौड्याल)
का.मु. सचिव

हरिहर भवन, पुल्चोक, फोन नं : ५२५६५९, ५२५८४२, ५४७९७४, ५४७९७५, ५४७९७६, ५४७९७७
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राष्ट्रिय मानव अधिकार आयोग

मानव अधिकार आयोग ऐन २०५३ अन्तर्गत स्थापित

मिति : २०६०/१२/१३

प्रेस विज्ञप्ति

आज प्रधानमन्त्री सूर्यबहादुर थापाबाट “मानव अधिकार तथा अन्तर्राष्ट्रिय मानवीय कानूनको कार्यान्वयनमा श्री ५ को सरकारको प्रतिवद्धता” घोषणा भएकोलाई राष्ट्रिय मानव अधिकार आयोगले सकारात्मक रूपमा लिएको छ, तथा यस प्रतिवद्धताको प्रभावकारी कार्यान्वयनको लागि श्री ५ को सरकार सक्रिय रहनेछ, भन्ने अपेक्षा गरेको छ।

प्रतिवद्धतापत्रले मानव अधिकार र मानवीय कानूनका सिद्धान्तहरूलाई अङ्गीकार गर्ने प्रयास गरेको भए पनि मानव अधिकार हननका घटनाहरूको निष्पक्ष छानविन र दोषीलाई गरिने न्यायिक प्रक्रियाको पारदर्शिताको बारेमा प्रतिवद्धतापत्र अझै स्पष्ट भएको देखिँदैन।

वर्तमान द्वन्द्वको सैन्य समाधान तर्फ नलागि मानव अधिकारको व्यावहारिक कार्यान्वयन गरि शान्ति प्रक्रियालाई अगाडि बढाउन राष्ट्रिय मानव अधिकार आयोगले सरकार समक्ष “मानव अधिकार संरक्षणका लागि तत्कालै चाल्नुपर्ने न्यूनतम कदमहरू” र मानव अधिकार सम्झौताको प्रस्ताव यस अगावै प्रस्तुत गरिसकेको छ। सरकार उपरोक्त सुझावप्रति गम्भीर हुनेछ, भन्ने आयोगले आशा गरेको छ।

यसै सन्दर्भमा शान्ति स्थापनाको लागि संयुक्त राष्ट्र संघका महा-सचिव कोफि अन्नानद्वारा नेपालको वर्तमान परिस्थिति प्रति चिन्ता गरी देखाएको चासो र सहयोगको प्रस्तावलाई स्वागत गर्दै आयोगद्वारा संयुक्त राष्ट्र संघीय मानव अधिकार उच्चायुक्तको कार्यालयको प्राविधिक सहयोगमा गरिने मानव अधिकारको प्रभावकारी अनुगमनको कामलाई अगाडि बढाउन सरकारले सहयोग गर्नेछ, भन्नेमा पनि आयोग विश्वस्त छ।

राष्ट्रिय मानव अधिकार आयोग ने.क.पा. (माओवादी) समक्ष पनि अविलम्ब अन्तर्राष्ट्रिय मानवीय कानून र मानव अधिकारका सिद्धान्तहरू प्रति आफ्नो सुस्पष्ट प्रतिवद्धता व्यक्त गरी त्यसको कार्यान्वयन गर्ने बचनवद्धता सार्वजनिक गर्न तथा बन्धक बनाउने काम जस्तो जेनेभा महासन्धि विरोधी क्रियाकलाप बन्द गरी बन्धक बनाइएकाहरूको अविलम्ब रिहाई गर्न आह्वान गर्दछ।

हिंसात्मक द्वन्द्वलाई नरोकी कुनै पनि शान्ति प्रक्रिया अगाडि बढ्न नसक्ने भएकोले विगतका अनुभवबाट पाठ सिक्दै अविलम्ब समझदारी सहित “युद्धविराम” गर्न राष्ट्रिय मानव अधिकार आयोग श्री ५ को सरकार र ने.क.पा. (माओवादी) समक्ष आह्वान गर्दछ।



(केदारप्रसाद पौड्याल)

का.मु. सचिव



राष्ट्रिय मानव अधिकार आयोग

मानव अधिकार आयोग ऐन २०५३ अन्तर्गत स्थापित

मिति २०६०/१२/१९

प्रेस विज्ञप्ति

राष्ट्रिय मानव अधिकार आयोगको आज मिति २०६०/१२/१९ मा बसेको बैठकले श्री ५ को सरकार, गृह मन्त्रालयबाट प्राप्त प. सं. शा. सु. ०६०/०६१ च. नं. ३९४८ मिति २०६०/१२/१६ को पत्रमा आयोगप्रति लाञ्छना लगाउँदै “.....एकपक्षीय प्रतिवेदन तयार गर्न लगाई सुरक्षा फौजले ज्यादती गरिरहेको छ भन्ने सन्देश सर्वसाधारण जनता र अन्तर्राष्ट्रिय क्षेत्रमा समेत दिएर सुरक्षा फौजको छविमा आँच पुऱ्याउने कार्य गरिरहेको” तथा “आयोगले अनुसन्धान टोली खटाउँदा छानबिन टोलीमा सुरक्षा फौजको प्रतिनिधि समेत अनिवार्य रूपमा समावेश गर्नुपर्ने” भनी उल्लेख भएकोलाई आयोगले गम्भीर रूपमा लिई खेद प्रकट गरेको छ। उक्त पत्रले आयोगको निष्पक्ष काम कारवाहीमा गैरकानूनी हस्तक्षेप गरेको भन्ने ठहर गर्दै उक्त पत्र आयोगको निष्पक्षता र स्वतन्त्रतामा आँच आउने गरी मानव अधिकार आयोग ऐन, २०५३ को प्रावधानको समेत विपरीत भएको ठहर गरेको छ।

आयोगले मुख्य सचिवलाई सम्बोधन गरी पठाएको पत्रमा भनिएको छ - सम्माननीय प्रधानमन्त्रीज्यू श्री सूर्यबहादुर थापाद्वारा मिति २०६०/१२/१३ मा घोषणा गरिएको “मानव अधिकार तथा अन्तर्राष्ट्रिय मानवीय कानूनको कार्यान्वयनमा श्री ५ को सरकारको प्रतिवद्धता” वेवास्ता गर्दै त्यसको विपरीत आयोगको निष्पक्ष काम कारवाही र गरिमामा समेत आँच आउने गरी श्री ५ को सरकार, गृह मन्त्रालयबाट पत्र प्राप्त हुँदा आयोग आश्चर्यचकित छ र यसलाई आयोगले आफ्नो काम कारवाही माथिको गैरकानूनी हस्तक्षेपको रूपमा लिएको छ।

नेपालमा मानव अधिकारको स्थिति र मानव अधिकारको संरक्षणको लागि एक स्वतन्त्र निकायको रूपमा आयोगले खेल्नुपर्ने सक्रिय भूमिकाका सम्बन्धमा राष्ट्रिय र अन्तर्राष्ट्रिय रूपमा समेत गम्भीर चासो लिएको अवस्थामा यस्तो पत्र प्राप्त हुनु खेदको विषय हो भन्ने आयोगको धारणा रहेको छ। विगतमा पनि सुरक्षा निकायबाट आयोगलाई एकपक्षीय भएको भनी लगाइएको आरोप स्वयम् सुरक्षा निकायबाटै दोरम्बा र चिसापानीलगायतका कतिपय स्थानमा भएका कारवाहीमा गल्ती स्वीकार गरेबाटै आयोगप्रतिको लाञ्छना भ्रुटो सावित भइसकेकोप्रति पनि ध्यानाकर्षण गरिएको छ।

प्रस्तुत विषयमा ध्यानाकर्षण भई त्यस्तो पत्राचार गर्नेमाथि मुख्य सचिवबाट आवश्यक कारवाही हुनेछ, भन्ने विश्वास लिई आइन्दा यस्तो काल्पनिक कुराको आधारमा आयोगको काम कारवाहीमा हस्तक्षेप नहुने व्यवस्था मिलाउन पनि आयोगले अनुरोध गरेको छ।

(केदारप्रसाद पौड्याल)

का.मु. सचिव



राष्ट्रिय मानव अधिकार आयोग

मानव अधिकार आयोग ऐन २०५३ अन्तर्गत स्थापित

मिति २०६०/१२/२८

प्रेस विज्ञप्ति

राजनैतिक दलहरूद्वारा गरिएको शान्तिपूर्ण विरोधको क्रममा मिति २०६० चैत्र २७ गते प्रहरीद्वारा गिरफ्तार गरी बन्दी बनाइएकाहरूको अवस्था बुझ्ने सिलशिलामा राष्ट्रिय मानव अधिकार आयोगका सदस्यद्वय डा. गौरीशंकरलाल दास र सुशील प्याकुरेल संलग्न टोलीले आज विहान थापाथली स्थित नेपाल खाद्य संस्थानको गोदाम, महेन्द्र पुलिस क्लब र दशरथ रंगशालाको स्थलगत निरीक्षण गरी बन्दीहरू लगायत सुरक्षाकर्मीहरूसँग भेट गर्‍यो ।

निरीक्षणको क्रममा टोलीले कसैलाई पनि बन्दी बनाउनु पर्दा अपनाउनु पर्ने कानूनी प्रक्रियाको अवज्ञा गरेको पायो । विशेष गरी खाद्य संस्थानको गोदाममा राखिएका बन्दीहरू प्रतिको अमानवीय व्यवहार देखेर आयोग क्षुब्ध भएको छ । खुला चौर, अंधारो गोदाममा, ओझ्ने ओछ्याउने, पानी, शौचालयको समेत व्यवस्था नगरी खसिबोका, भेडाच्याङ्गा राख्ने अति दुर्गन्धित ठाउँमा करिब एक हजार व्यक्तिहरूलाई थुनामा राखिएको पाइयो । निरीक्षण गरिएका अन्य स्थलमा पनि ओझ्ने ओछ्याउनेको व्यवस्था नभएको, कुनै पनि बन्दीलाई थुनुवा पुर्जा नदिइएको मात्र होइन बन्दीहरूको यथार्थ लगत समेत राखिएको पाइएन । कतिपय बन्दीहरूलाई क्षमता भन्दा बढी टुकमा राखी टाढा पुर्‍याई छोडेको भन्ने सूचना पनि आयोगलाई प्राप्त भएको छ । साथै कतिपय विद्यार्थीहरूलाई जाँचको मुखमा बन्दी बनाइएको पाइएको छ ।

आयोग श्री ५ को सरकारसँग मानव अधिकार प्रति आफ्नो दायित्वहरू पुरा गर्दै यहि २०६०/१२/१३ मा प्रधानमन्त्रीले सार्वजनिक गर्नुभएको प्रतिवद्धता विपरीत काम नगर्न र मानव अधिकारका सिद्धान्तहरूलाई पालन गर्न स्मरण गराउन चाहन्छ । साथै जाँच दिनुपर्ने विद्यार्थीहरूलाई उनीहरूले निर्वाध जाँच दिने वातावरण बनाउन समेत आह्वान गर्दछ ।

(केदारप्रसाद पौड्याल)

का.मु. सचिव



National Human Rights Commission

(Established under The Human Rights Commission Act, 1997)

Press Release

August 20, 2003

The National Human Rights Commission, Nepal (NHRC) expresses its shock and grief over the sad demise of Mr. Sergio Vieira de Mello, the UN High Commissioner for Human Rights and others who perished in the cowardly bombing of the United Nations headquarters in Iraq yesterday.

The National Human Rights Commission has always appreciated the efforts of the High Commissioner for Human Rights and his office in institutionalizing the human rights movement around the world and giving strong leadership to the UN system in this area. He had also been supporting the work of national human rights institutions in the promotion and protection of human rights in all possible ways.

The Commission very much respects the courage and commitment shown by the High Commissioner and his staff who have laid down their lives in the cause of promoting and protecting human rights.

The National Human Rights Commission condemns this terrorist attack and the loss of innocent lives and requests the UN and the international community to bring the offenders to justice as soon as possible.

On this sad occasion, the Commission expresses its sorrow and deepest sympathies and offers its prayers for eternal peace of the departed souls.

Kedar Prasad Poudyal
Acting Secretary



COMMUNIQUE DE PRESSE-COMUNICADO DE PRENSA

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24 November 2003

IMMEDIATE

NGOS AND GOVERNMENTS SAY HUMAN RIGHTS MONITORING URGENTLY NEEDED IN NEPAL

Seven international human rights organisations have strongly endorsed the call by the Nepal's National Human Rights Commission (NHRC) and eight Governmental donor agencies and Embassies in Kathmandu for international monitoring of the human rights situation in Nepal and have urged the international community to fully support this appeal. The organisations, Amnesty International, the Association for the Prevention of Torture (APT), Human Rights Watch (HRW), the International Commission of Jurists (ICJ), the International Federation of Human Rights (FIDH), the International Service for Human Rights (ISHR), and the World Organisation against Torture (OMCT) also have called on the Government of Nepal to extend invitations to visit the country to the human rights experts of the United Nations Human Rights Commission.

On 18 November, the NHRC issued a call for United Nations human rights experts, including these charged with examining arbitrary detention and torture, to visit the country. The NHRC has presented a proposal for a Human Rights Accord to the Government and the Maoist rebels which would provide for five NHRC regional monitoring units in the country to operate in co-operation with the United Nations High Commissioner for Human Rights.

In a joint statement of 18 November, the Canadian Embassy, the United Kingdom Department for International Development (DFID), the French Embassy, the German Society for Technical Co-operation (GTZ), the Royal Danish Embassy, the Royal Norwegian Embassy, the Swiss Agency for Development and Co-operation and the Netherlands Development Organisation have expressed concern about "the rapidly deteriorating human rights situation" and declared that there is an "urgent need" for the Government and the Maoist rebels to sign the proposed Human Rights Accord.

The Nepal Bar Association and many Nepalese human rights organisations have made similar calls for an international monitoring presence.

Background

Since the breakdown of peace talks in August, the incidents of extra-judicial killings, enforced disappearances, torture, and arbitrary detentions in Nepal have risen dramatically. A large number of persons have been held incommunicado in army barracks. Officers at army barracks have been refusing to accept habeas corpus notices issued by the Nepal Supreme Court, on behalf of detainees.

The Government of Nepal has recently sought to undermine the independent NHRC by proposing the establishment of a parallel human rights unit directly under the supervision of the Prime Minister. Army officials have challenged the NHRC over the findings by its independent experts that at least 19 unarmed persons were extra-judicially executed by army personnel in Ramechhap District on 17 August 2003.

Annex 2

60th session of the United Nations Commission on Human Rights Geneva, Switzerland

15 March - 23 April 2004

Chairperson's Statement on Human Rights Assistance to Nepal

“The Commission on Human Rights”

1. Expresses its concern at the human rights situation in Nepal since the breakdown of the ceasefire on 27 August 2003, and at the growing number of civilian victims as a result of ongoing violence. The Commission appeals to His Majesty's Government of Nepal to strengthen its efforts to ensure the enjoyment of fundamental rights by all people in Nepal;
2. Condemns the indiscriminate violence perpetrated by the Communist Party of Nepal (CPN-Maoists), including the use of children in armed conflict, and strongly appeals to the CPN-Maoists to renounce violence and calls upon them to respect the human rights of all people;
3. Recognizes the efforts of His Majesty's Government of Nepal to address the human rights situation in Nepal. It encourages the Government in its efforts to investigate and prosecute all violations. In this context, the Commission welcomes the Government's "Commitment on the implementation of human rights and international humanitarian law" of 26 March 2004, in particular its commitment to promote and protect human rights and fundamental freedoms and to fulfil its international human rights and humanitarian law obligations;
4. Welcomes the commitment of His Majesty's Government of Nepal and supports its efforts and those of the Office of the United Nations High Commissioner for Human Rights (OHCHR) aimed at developing technical assistance and advisory services and to facilitate the necessary external assistance, especially to the National Human Rights Commission, including through the signing of a memorandum of understanding to develop its institutional capacity and human resources so that it can carry out its mandate, including nationwide monitoring and investigations, in an independent, impartial and credible fashion;
5. Welcomes the submission of the periodic reports by His Majesty's Government of Nepal to the various human rights treaty bodies and encourages the Government of Nepal to seek assistance, if necessary, from OHCHR for the preparation of national reports, and to adequately follow up the recommendations of the treaty bodies. It also welcomes the fact that the Government of Nepal has extended invitations to the special rapporteurs of the Commission to visit Nepal;
6. Welcomes the signature by His Majesty's Government of Nepal of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and appeals to the Government to ratify this instrument;
7. Encourages the international community to assist His Majesty's Government of Nepal in its efforts to strengthen its national capacity to improve the present human rights situation;
8. Requests OHCHR to submit a report on its activities in Nepal, including technical cooperation, to the Commission at its sixty-first session.”

Annex 3**EIGHTH ANNUAL MEETING OF THE ASIA PACIFIC FORUM
OF NATIONAL HUMAN RIGHTS INSTITUTIONS****16 – 18 February 2004, Kathmandu, Nepal****CONCLUDING STATEMENT****Introduction**

1. The Asia Pacific Forum of National Human Rights Institutions (the Forum), consisting of the National Human Rights Commissions of Nepal, Afghanistan, Australia, Fiji, India, Indonesia, Malaysia, Mongolia, New Zealand, Palestine, Philippines, Republic of Korea, Sri Lanka and Thailand, held this Eighth Annual Meeting in Kathmandu, Nepal from 16 to 18 February 2004.
2. The Forum expressed its gratitude to the National Human Rights Commission of Nepal for hosting the meeting, to the Office of the United Nations High Commissioner for Human Rights (OHCHR) for its co-sponsorship and to all its donors for their financial support. The Forum expressed its appreciation for the efforts of the Commissioners and staff of the National Human Rights Commission of Nepal and the secretariat of the Forum for their work in the organisation of the meeting.
3. The Forum welcomed the participation of the Advisory Council of Jurists and the representatives, as observers, from the ILO, UNDP and UNESCO, the governments of Australia, India, Indonesia, Nepal, New Zealand, Republic of Korea, Solomon Islands, Thailand, Timor-Leste, United Kingdom and the United States of America, the institutions from Iran, Jordan and the Maldives, the regional Network of National Human Rights Institutions of the Americas, and thirty eight international, regional and national non-governmental organizations.
4. The Rt. Hon. Surya Bahadur Thapa, Prime Minister of Nepal, Rt. Hon. Nayan Bahadur Khatri, Chairman of the National Human Rights Commission of Nepal and the Chairperson of the Asia Pacific Forum of National Human Rights Institutions and Mr Matthew Kahane, United Nations Resident Coordinator (Nepal), on behalf of Mr Bertrand Ramcharan, Acting High Commissioner for Human Rights, addressed the inaugural session. In the opening statements the distinguished speakers recognised the need to protect and promote human rights and ensure the rule of law in combating terrorism.

Conclusions

The Forum, during its closed business session:

5. Noted the activity report of the Forum over the last twelve months and adopted the Forum's Business Plan for 2004 to 2006. Forum Councillors expressed their appreciation for the work of the secretariat and requested the secretariat to report back on the implementation of the Business Plan to the annual meetings of the Forum.
6. Reaffirmed that the structure and responsibilities of national institutions should be consistent with the Principles Relating to the Status of National Institutions adopted by the United Nations General Assembly (Resolution 48/134) commonly referred to as the 'Paris Principles.' On this basis it reaffirmed the full membership of the New Zealand Human Rights Commission and admitted the Afghanistan Independent Human Rights Commission and the Palestinian Independent Commission for Citizens Rights as associate members of the Forum. This increased the Forum's overall membership to 14 institutions. The Forum will assist the new associate members, where possible, to become fully compliant with the Paris Principles.
7. Decided to formulate a new reference to the Advisory Council of Jurists on the issue of the prevention of torture during detention and requested the secretariat to prepare draft terms of reference for the consideration and approval of the Forum. The Forum also requested the secretariat to seek financial support to strengthen the work of the Advisory Council of Jurists.
8. Considered the proposals of the National Consultative Commission of Human Rights of France to amend the rules of procedure of the International Coordinating Committee of National Human Rights Institutions and decided to reject the proposed regulation regarding the activities of 'regional groupings' of national human rights institutions. The Forum also elected the national human rights institutions from Fiji, Nepal, Philippines and the Republic of Korea to be the four regional representatives to the International Coordinating Committee of National Institutions. The Fiji Human Rights Commission will serve on the International Coordinating Committee accreditation sub-committee.
9. Welcomed the second meeting of Senior Executive Officers of Forum member institutions and commended their efforts to assist the effective and efficient functioning of national human rights institutions. The Forum also requested that the secretariat continue to assist the Senior Executive Officers in the implementation of their activities.
10. Considered the secretariat's report of the Forum's finances and administration and adopted the Directors and Financial reports, and auditors report, for the period ending 31 March 2003. Forum Councillors expressed their appreciation for the financial contributions made to the Forum by its member institutions and the Australian Agency for International Development, British Council, Brookings Institution, Government of India, Government of the Republic of Korea, MacArthur Foundation, National Endowment for Democracy, New Zealand Agency for International Development, OHCHR, UNICEF and the US Department of State.
11. Considered the need to adopt alternative mechanisms to ensure that the Forum's annual general meetings are held within statutory requirements and accepted the kind offer of the Australian Human Rights and Equal Opportunity Commission to develop a proposal for the consideration of Forum Councillors to amend the Forum's Constitution to address this issue.

12. Considered, for the first time, the issue of Forum membership fees and agreed to adopt a flat fee of \$3000 USD per full member institution per annum and \$1500 USD per candidate and associate member institution per annum with the possibility that these fees could also be paid by the provision of services to the Forum of an equivalent value 'in kind'.
13. Unanimously elected the National Human Rights Commission of Nepal (as the current host institution of the annual meeting) to the position of Chairperson of the Forum. The National Human Rights Commission of India (as the host institution for the last annual meeting) and the National Human Rights Commission of the Republic of Korea (as the host institution for the next annual meeting) were also elected unanimously to the two positions of Deputy Chairpersons.

The Forum, during its open plenary sessions:

14. Expressed appreciation to the OHCHR for its continuing commitment to strengthen partnerships with the Forum across all relevant thematic and geographical activities. In turn, the Forum requested that the national institutions team of the OHCHR be strengthened.
15. Requested the support of the OHCHR and Member States for the implementation of the activities contained in both its Business Plan and the UN framework for regional human rights arrangements in the Asia Pacific. The Forum welcomed the participation of the coordinator of the Asia Pacific geographic team and recommended that this practice continue.
16. Appreciated the constructive contribution of non-governmental organisations to the work of the Forum. The Forum thanked non-governmental organisations for their substantive written submissions and their collective participation and advocacy in the meeting through the Asia Pacific Human Rights Network. The Forum reaffirmed the importance of undertaking joint practical collaborative activities with non-governmental organisations for the protection and promotion of human rights and welcomed their continued participation in annual meetings of the Forum.
17. Welcomed the reports of Forum members, relevant institutions and regional governments to protect and promote human rights. The Forum stressed the need for constructive and practical engagement with governments and thanked them for their active participation and constructive contributions to the meeting. In particular, the Forum congratulated the governments of the Maldives, Solomon Islands and Timor-Leste for their decision to establish national human rights institutions in full compliance with the Paris Principles and requested that the secretariat provide assistance, within available resources, to assist in this process.
18. Reported on their implementation of the recommendations of the Advisory Council of Jurists' reports on the death penalty, child pornography on the internet and trafficking. A number of Forum Councillors specifically cited the successful implementation of the Advisory Council's recommendations.

19. Called on governments of Forum member institutions to strengthen the independence and institutional capacity of national institutions to enable them to carry out their mandates more effectively. In particular, national institutions should be provided with a wide and unrestricted mandate to conduct investigations of human rights violations. Governments should also give serious consideration to the determinations and recommendations of national human rights institutions and ensure their effective implementation.
20. Welcomed progress to develop a new international convention on the rights of people with disabilities, as advocated by national institutions at the workshop held in New Delhi, India in 2003. Forum institutions agreed to establish a working group to assist in the development of the proposed convention. The Forum welcomed the offer of the OHCHR to continue to support the Forum in these activities.
21. Considered the potential role of national human rights institutions under the Optional Protocol to the Convention Against Torture and Other Forms of Cruel, Inhumane and Degrading Treatment. Forum member institutions recommend that their governments sign and ratify both the Convention and its Optional Protocol.
22. Considered the issue of terrorism and the rule of law, including the views of international experts and non-governmental organisations, and the interim report of the Advisory Council of Jurists. The Forum warmly thanked the jurists of the Advisory Council for their expertise and the comprehensive scope of their report. Forum member institutions would carefully consider the final recommendations of the Advisory Council and report back to the next annual meeting.
23. Was gravely concerned about the violations of human rights in Nepal and appreciates the efforts of the National Human Rights Commission of Nepal to promote the signing of the Human Rights Accord between the conflicting parties with a view to promoting peace.
24. Gratefully accepted the kind offer of the National Human Rights Commission of the Republic of Korea to host the Ninth Annual Meeting of the Forum and the International Conference of national institutions in September 2004.
25. Gratefully accepted the kind offer of the National Human Rights Commission of Mongolia to host the Tenth Annual Meeting in 2005.
26. Gratefully accepted the kind offer of the Fiji Human Rights Commission to host the Eleventh Annual Meeting in 2006.

A report on the meeting will soon be available on the Forum website.
www.asiapacificforum.net

Annex 4

Letters sent to the government bodies and the Maoists drawing their attention

Attention drawn by the Commission through the issuance of press statements at different dates for the protection and promotion of human rights.

S. No.	Date	Particulars
1	29 July 2003	The meeting of the Commission decided to make effective monitoring of the human rights provisions included in the code of conduct.
2	15 August 2003	The NHRC, writing a letter to the negotiating teams of His Majesty's Government and the CPN (Maoist), asked them to include the 'Human Rights Agreement' proposed by the Commission as an agenda in the talks.
3	20 August 2003	The NHRC condemned the dastardly murder of the Chief UN Commissioner for Human Rights Mr. Sergio Vieira de Mello in Iraq and prayed for the eternal peace of the departed soul.
4	22 August 2003	The NHRC in a statement expressed dismay on the failure of the government and the Maoists to sign the human rights agreement the commission had submitted on 9 May 2003, despite them expressing repeated commitments to human rights.
5	27 August 2003	The NHRC regretted and condemned the attack on former Prime Minister and President of Nepali Congress (Democratic) Sher Bahadur Deuba by a group of armed Maoists at Pahalmanpur of Kailali district while the former was returning to Nepalgunj from Dhangadhi to participate in a party's political programme. The Commission also called on the Maoists to abide by the code of conduct on ceasefire it had signed.
6	29 August 2003	In the context of the Maoists making a statement that there was no rationale of the talks, ceasefire and code of conduct, the NHRC, drawing attention of both the sides, called on them not lose patience in any circumstance and to avoid any thing that would terrorize the people, and also asked the two sides to find a solution to the problem through negotiation.
7	4 September 2003	The NHRC organized a one-day workshop on 'Following and Implementation of International Humanitarian Law' and the NHRC concluded to lobby for the formulation of national laws to correspond with the Geneva Convention.
8	5 September 2003	Coordinators of the investigation committee formed by the Commission submitted their reports regarding the violent incidents in Siraha, Panchthar and Doramba of Ramechhap during the ceasefire. Those submitting reports were Gyanendra Bahadur Shrestha for Panchthar, Krishna Jung Rayamajhi for Ramechhap and Udaya Raj Upadhyaya for Siraha.

S. No.	Date	Particulars
9	11 September 2003	Chairman of the NHRC Nayan Bahadur Khatri wrote a letter to the then Prime Minister Surya Bahadur Thapa and asked him to implement the recommendations made regarding the incidents in Doramba of Ramechhap, Nagi of Panchthar and Dhangadhi of Siraha in the context of the acceptance of the ceasefire and the code of conduct according to the decision of 26 August 2003.
10	25 September 2003	The NHRC held consultative meeting with different political parties.
11	1 October 2003	The NHRC expressing best wishes to all Nepalese on the occasion of Vijaya Dashami, took the ceasefire announced by the Maoists as a positive gesture and called on all sides, including the Maoists, to come to peace talks by giving continuity to the ceasefire.
12	13 October 2003	The NHRC, after being drawn its attention to the kidnapping of Mahendra Yadav, a Nepali Congress leader and former Minister of State for Home, from Khutti Pipradi of Mahottari and central president of All Nepal National Free Students' Union Rajendra Rai from Jhaupokhari of Bhojpur, called on the honorable release of the kidnapped persons and asked the conflicting parties to take initiatives to resolve the political problems through political means.
13	15 October 2003	The NHRC said that it was sending a team the next day to investigate the death of some students in a clash between the CPN-Maoists and the security forces in the premises of the Sharada Higher Secondary School in Mudbhara VDC of Doti district on October.
14	19 November 2003	The NHRC apprised about its decisions made by its meeting on 18 November 2003 about the disappearance of Krishna KC; the series of violent incidents perpetrated by the Maoists at Sharada Higher Secondary School in Mudabhara of Doti district ; invitation of the task force and special facilitator on Missing and Torture of the United Nations and observance of the 55 th Human Rights Day.
15	26 November 2003	Different suggestions were made to His Majesty's Government on the basis of requests made to the NHRC regarding the formation of Human Rights Promotion Center; violation of children's rights, shooting to death of Rajeev Shrestha by army personnel and violations of the rights of the disabled.
16	5 December 2003	The NHRC held interactions with the political parties in relation to the monitoring of human rights and the peace process.
17	26 December 2003	The NHRC informed that it was sending a team, including NHRC commissioners to investigate and monitor on the incident at Chisapani VDC of Khotang and the closing of schools in Mugu district.
18	6 January 2004	The NHRC condemned the kidnapping by the Maoists of the District Education Officer of Khotang Hari Basti, school inspector Surya Raj and four others from Nunthal VDC of the district and asked the Maoists for their safe and immediate release.

S. No.	Date	Particulars
19	9 January 2004	Coordinator of the group formed to monitor the education and health situations of the children in VDC No. 11 of eastern Bajura district Surya Bahadur Deuja presented its report to chairman of the NHRC Nayan Bahadur Khatri.
20	16 January 2004	The NHRC condemned the gruesome murders of Mayor of Birgunj sub-municipality Gopal Giri, Regional chairman of the Nepali Congress in Parbat district Haridutta Tiwari and other unarmed and non-military persons bearing public responsibilities by the Maoists, and asked all sides to become serious towards irresponsible activities against the lifestyle that is oriented towards human rights.
21	9 February 2004	The NHRC reminded the request made to the government and the CPN-Maoists to sign on the human rights agreement, drawing the attention towards the interest shown by the CPN-Maoists towards mediation and supervision of the United Nations.
22	13 February 2004	The NHRC apprised representatives of the human rights cells of different government bodies the facts collected after monitoring the situation in 20 districts from 26 December 2003 to 18 January 2004 and also the facts collected after investigating the incidents at Kumari of Nuwakot, Chisapani of Khotang, Chamakhar of Panauti, Kavre, Mahadevpur of Banke and Pandoun of Kailali.
23	16 February 2004	The NHRC condemned the murder of Ganesh Chilwal, president of Nepal Maoist Victims' Association at the Association's office in Baghbazar on 15 February 2004 by the Maoists, and appealed the Maoists again not to repeat such incidents and also to fully respect the UN Declaration of HR Defenders.
24	18 February 2004	The NHRC brought to the public's notice about the decisions of the 8 th annual meeting of the Asia Pacific Forum of the human rights organizations, held in Kathmandu and inaugurated by the then Prime Minister Surya Bahadur Thapa, including the selection of the National Human Rights Commission of Nepal as chairman until the next meeting, which will be held in South Korea.
25	20 February 2004	The NHRC expressed gratitude to all who helped to make the 8 th annual meeting of the national human rights commission of the Asia and the Pacific Region successful and thanked the political parties, civil society, media people and the United Nation and the international community for their continuous support for the preservation and promotion of human rights.
26	23 February 2004	The NHRC made recommendations to the Office of the Prime Minister and to the Council of Ministers to carry out detailed investigation and take action against the wrong-doers on the basis of the report of the investigation team formed by the Commission regarding the kidnapping of the member to the dissolved House of Representatives Hem Narayan Yadav of CPN-UML from Siraha-4 and the finding of his body on 3 February 2004.

S. No.	Date	Particulars
27	2 March 2004	The Commission asked the CPN-Maoists not to repeat activities such as forcing school children to participate in their activities, pressurizing teachers to teach their <i>Janbadi</i> Education (people's education) and conducting militia activities in school premises, and asked them to desist anything that infringes the right of the children to education and that affects their security.
28	5 March 2004	In relation to the kidnapping of Raj Parishad member Sheikh Sarajul of Rautahat and of setting fire to his house, the NHRC again asked the CPN-Maoists to refrain from these kinds of irresponsible activities appealed them for the safe and immediate release of the Raj Parishad member.
29	8 March 2004	The NHRC drew the attention of the Maoists about their attack at the Dadeldhura District Court two days earlier and the death of peon Thim Singh Bista in the explosion and called them again not to make indiscriminate attack on public infrastructure and on non-military targets.
30	9 March 2004	Chairman of NHRC Nayan Bahadur Khatri informed in detail to the Minister of Foreign Affairs and Foreign Secretary about a letter he had sent to the then Prime Minister Surya Bahadur Thapa calling his attention.
31	12 March 2004	The NHRC brought to the notice of the government about the minimum steps it has to take for the protection of human rights.
32	20 March 2004	The NHRC appealed to the Maoists to treat Chief District Officer Sagar Mani Parajuli, DSP Ran Bahadur Gautam and others, they had captured after their attacks on Beni, district headquarters of Myagdi district, according to Common Article 3 of the Geneva Conventions and to respect their rights to freedom and safety.
33	31 March 2004	The NHRC asked the government to provide travel documents as soon as possible to Bhutanese human rights leader Tek Nath Rizal, and to give him the status of refugee.
34	1 April 2004	In the context of the Home Ministry, by making a one-sided report, giving an impression to the people and the international community that the security forces were doing excesses and thus tainting its image, and when the NHRC assigned an investigation team, it wrote to the commission that such an investigation team should also include representative of the security forces, the NHRC regretted such decision and demanded with the Chief Secretary of the government to take appropriate action against those who wrote the letter. The NHRC also asked the government to make an arrangement so that it would not infringe upon the functions and the activities of the Commission on the basis of speculations.
35	6 April 2004	The NHRC asked the government to stop indiscriminate use of batons, boots, tear gas and rubber bullets and to stop injuring people by hitting them on sensitive parts such as the head during protest programs like rallies and sit-ins of the political parties.

S. No.	Date	Particulars
36	9 April 2004	The NHRC, while drawing attention of His Majesty's Government on the sudden announcement of some places as riot-prone areas and the arrests of leaders and workers of the political parties, lawyers and human rights activists, asked the government to remain aware about its human rights commitments.
37	10 April 2004	A team of NHRC, including Commissioner Dr. Gouri Shankar Lal Das and Sushil Pyakurel, made on-the-site inspection of the places where those arrested by police during the peaceful demonstration of the political parties were kept and apprised His Majesty's Government about to follow the principles of human rights.
38	12 April 2004	The CPN-Maoists were called to apply humanitarian law into practice and to honorably release the 42 policemen, including an assistant inspector, they had kidnapped after attacking the Area Police Office in Pashupatinagar of Ilam district.
39	19 April 2004	In the context of the arrests and ill-treatment rendered to the media people by the security forces while collecting news of the agitation of different political parties, the National Human Rights Commission called on His Majesty's Government to respect the rights of the media to collect news and to ensure their safety.
40	21 April 2004	The NHRC discussed with different organizations working in the field of human rights to monitor the practical implementation of the announcement made, on behalf of His Majesty's Government, by the then Prime Minister Surya Bahadur Thapa on 26 March 2004, to protect human rights and international humanitarian law.
41	22 April 2004	The National Human Rights Commission called on the CPN-Maoists to respect the humanitarian law and to honorably release the staffs of the Ministry of Land Reforms and Management, Department of Metrology, Astronomy and Land Mapping Section they had kidnapped and torched their vehicle after seizing it while on field duty at Chawali of Lalitpur.

Annex 5

Categorisation of incidents concerning Human Rights Violation on District basis

S. N.	Incident Spot	Months												Total
		Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad	
1	Taplejung		1					2			2		1	6
2	Illam							2		1		1		4
3	Jhapa		1	2	2	1	5	2		1	3	3	2	22
4	Panchthar		1					1	2		1	1		6
5	Sankhuwasabha			1					1		1	3		6
6	Terathum					1				1				2
7	Bhojpur							1			1	2	1	5
8	Dhankuta													
9	Khotang	1				2	2	1		1		1	1	9
10	Sunsari		1	1		2		3	2	2	1			12
11	Morang			4	4	2	1		1	6	3	3	3	27
12	Solukhumbu			1		1	1					1	1	5
13	Okhaldhunga				1		3	1		1	2		1	9
14	Udaypur					3				1			1	5
15	Siraha	1	1	1	1	4	1		1	5		1	3	19
16	Saptari	2			1			3	1			1	3	11
17	Dolkha		1		1	1			1			1		5
18	Ramechhap		2	1	1				1				3	8
19	Sindhuli				3	1						3	2	9
20	Dhanusha		3	3	2	1	1	4	3	1	3	3	2	26
21	Mahottari	1	1	2	2	7	1	1	1	1	2	1	4	24
22	Sarlahi				1				2	1				4
23	Sindhupalchowk		2	1	3	2	1	1	1	2	2	1	1	17
24	Rasuwa													
25	Nuwakot	2	1	1	2	2	1		1	2	2	3	3	20
26	kavre		2	1	1	2	5		7		3	3	5	29
27	Kathmandu	7	29	33	36	64	31	37	29	21	18	14	24	343
28	Lalitpur		3	13	3	9	3	2	3	4	3	6	6	55
29	Bhaktapur		2	4	1	3	1		2	1		1		15
30	Dhading	2	2		3	9	1	3	2	1		1		24
31	Chitwan		1		1	1	3		2		1	1	1	11
32	Makawanpur	1				2	1	2		1	3	2	2	14
33	Bara			1			1	1	3		1		2	9
34	Parsa	1	1	1		2	1		1	1	1			10
35	Rautahat	1		2		1	1	2	7		2		3	19
36	Gorkha				1			1		2	1		3	8

S. N.	Incident Spot	Months												Total	
		Shrawan	Bhadra	Aswin	Kartik	Mangsir	Poush	Magh	Falgun	Chaitra	Baishak	Jestha	Ashad		
37	Tanahun							1				1			2
38	Palpa													1	1
39	Rupandehi		1							1	1		1		4
40	Nawalparasi			2					1	2	1	1			7
41	Kapilbastu									1					1
42	Arghakhanchi		1						1			1			3
43	Gulmi				1									3	4
44	Baglung				1	1		1	1	1	5				10
45	Syangjha						2	1			1	2			6
46	Parbat					1			2		2	1	1		7
47	Kaski		2		2	1		3	2		2	3	1		16
48	Lamjung			2			1	1			2				6
49	Manang														
50	Mustang														
51	Myagdi				1				4		3		1		9
52	Dang		1	1	2		2	1		1	1		1		10
53	Pyuthan		1		1		1		1						4
54	Rukum				1		1	1	2	1	1				7
55	Rolpa		1		2			1	1	1	1				7
56	Dolpa														
57	Salyan	1			1							1			3
58	Banke			5	5	4	3	3	8	2	3	7	8		48
59	Bardiya	3	2	2	1			1	2	2	7	1	1		22
60	Dailekh	1				1	1					1	1		5
61	Surkhet	1			2	2	1				2	1			9
62	Jajarkot							1							1
63	Kalikot										1	1	1		3
64	Jumla							5			1	1	3		10
65	Humla					1									1
66	Mugu							7	1		1		1		10
67	Bajhang				1				4	1	1				7
68	Bajura			2				2	7			1	2		14
69	Accham			1	1	3			4	2			1		12
70	Kanchanpur	1		1								2	3		7
71	Kailali				2	2	1	2	1	2	1	2			13
72	Doti		1	1				1	1	1	1				6
73	Dadeldhura					1					1				2
74	Baitadi							1		1					2
75	Darchula												2		2
76	Others								2			1	1		4
	Total	26	65	90	94	140	78	103	119	76	96	85	111		1083

Annex 6**ASSETS****National Human Rights Commission****Assets Inspection Form**

S.No.	Particular	Ledger Page No.	Stock on Ledger	Quantity on Counting	Incre./Decre.	Remarks
1	Stablizer	1	1	1	0	
2	Steel cupboard	2 & 18	20	20	0	
3	Cycle	3	6	3	3 less	
4	Laser jet printer Canon 1200	4	2	2	0	
5	Photocopy Machine	5	1	1	0	
6	Fax Machine	6	1	1	0	
7	Computer	7	4	4	0	
8	Notice Board	10	1	1	0	
9	Check Writer	11	1	1	0	
10	Office table	12, 29 43	21	21	0	
11	Dunlop Sofa	13	1	1	0	
12	White Board	14	4	4	0	
13	Soft Board	15	4	4	0	
14	Chair	16	59	59	0	
15	Digital telephone set	17	13	12	1 less	Useless 1 set
16	Maruti VX Zen car Ba 4 cha 662	19	1	1	0	
17	Type writer	21	2	2	0	
18	Round sofa	22	1	1	0	
19	Car's Key	24	1	1	0	
20	Kerosene heater	26	7	8	1 more	1 set as Income & 1 to be repaired
21	Electric heater	27	5	5	0	
22	File cabinet	28	1	1	0	
23	Book case	31	4	4	0	
24	Movable chair	32	5	5	0	
25	Coffee table	33	1	1	0	
26	Stool	34	1	1	0	
27	Big round wooden table	35	1	1	0	
28	Big wooden chair	36	8	8	0	
29	UPS	37	2	2	0	
30	Motercycle	38	2	2	0	
31	Fan	39	17	16	1 less	1 set less
32	Ba 1 jha 4653	40	1	1	0	
33	Maruti Ba 3 cha 9599	41	1	1	0	
34	Clock	46	4	4	0	
35	Computer table	67	2	2	0	
36	Safe	68	1	1	0	
37	Coat stand	69	5	5	0	

National Human Rights Commission
 Harihar Bhawan, Pulchok, Lalitpur
Yearly Financial statement for the Fiscal year 2060/061

Annex 7

Project Title : Integration of Dalit Rights promotion program the national institution activities.
 Donner's Name : **United Nations office of the High Commissioner for Human Rights(UNOHCR)**
 Bank Name : Himalayan Bank Ltd., Pulchok
 Account No. : 006-00329300018

Opening Fund balance	<u>Amount NRs.</u>
Cash and Bank	683,910.06
Advance	-
Tax Payable	-
Total	<u>683,910.06</u>
Fund Received during this period	-
Total	<u><u>683,910.06</u></u>

Expenditure for the month of Shrawan 1,2060 to Asad 31,2061

A/c Head	Description	Amount NRs.
1	Research	100,111.73
2	Poster	86,343.00
3	Project staff salary	14,000.00
4	Documentry package /location observe	240,327.40
5	Translation/Research report writing	12,500.00
6	Publication	34,375.00
7	Office Expenses	5,475.00
	Total	<u>493,132.13</u>

Fund balance as on Asad 31 , 2061	190,777.93
Represented by	<u>NRs.</u>
Cash and Bank	190,777.93
Advance	-
Tax Payable	-
Total	<u><u>190,777.93</u></u>

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission
 Harihar Bhawan, Pulchok, Lalitpur
Yearly Financial statement for the Fiscal year 2060/061

Project Title : To conduct research/hold consultations/and prepare White Paper
 Donner's Name : **The Asia Foundation**
 Bank Name : Himalayan Bank Ltd., Pulchok
 Account No. : 006-00329300018

Opening Fund balance	<u>Amount NRs.</u>
Cash and Bank	5 13,430.05
Advance	9,064.10
Tax Payable	(14,100.00)
Total	<u>508,394.15</u>
Fund Received during this period	-
Fund Refund during this period	<u>(222,500.00)</u>
Total	<u><u>285,894.15</u></u>

Expenditure for the month of Shrawan 1,2060 to Asad 31,2061

A/c Head	Description	Amount NRs.
1	Team Resources	123,050.00
2	Production of white paper	122,417.00
3	Participatory consultation	6,913.51
	Total	252380.51

Fund balance as on Asad 31 , 2061	33,513.64
Represented by	<u>NRs.</u>
Cash and Bank	24,449.54
Advance	9,064.10
Tax Payable	-
Total	<u><u>33,513.64</u></u>

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission
 Harihar Bhawan, Pulchok, Lalitpur
Yearly Financial statement for the Fiscal year 2060/061

Project Title : Project on development of an effective complaint management system
 Project Start : 29 January 2004, (15 Magh 2060)
 Donner's Name : **Canadian Human Rights Commission**
 Bank Name : Nepal Investment Bank Ltd. Pulchok
 Account No. : 0047320500

Opening Fund balance	<u>Amount NRs.</u>
Cash and Bank	-
Advance	-
Tax Payable	-
Total	-
Fund Received during this period	828,791.93
Fund Refund during this period	-
Total	<u>828,791.93</u>

Expenditure for the month of Shrawan 1, 2060 to Asad 31, 2061

A/c Head	Description	Amount NRs.
1	Investigation training	258,062.60
2	First visit on ACMS assessment of NHRC system	39,904.00
3	Project Officer Salary	100,000.00
4	Second visit on Complaint Handling system	114,671.60
	Total	512,638.20

Fund balance as on Asad 31 , 2061	316,153.73
Represented by	<u>NRs.</u>
Cash and Bank	319,153.73
Advance	-
Tax Payable	(3,000.00)
Total	<u>316,153.73</u>

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission

Harihar Bhawan, Pulchok, Lalitpur
Yearly Financial statement for the Fiscal year 2060/061

Project Title : A study of girls and young women emloyed in entertainment sector of Nepal
Project Start : 2060-06-14
Donner's Name : **ILO**
Bank Name : Himalayan Bank Ltd. Pulchok
Account No. : 006-00329300018

Opening Fund balance	<u>Amount NRs.</u>
Cash and Bank	-
Advance	-
Tax Payable	-
Total	-
Fund Received during this period	348,175.00
Fund Refund during this period	-
Total	<u>348,175.00</u>

Expenditure for the month of Shrawan 1, 2060 to Asad 31,2061

A/c Head	Description	Amount NRs.
1	Training & Orientation	2,204.00
2	Senior consultant	45,000.00
3	Researcher	63,000.00
4	Transportation	28,710.00
5	Tea/snacks	22,458.00
6	Data Entry	15,034.50
7	Computer Support	5,390.00
8	Data analyst	21,000.00
9	Communication /Stationery &Instrument Production	20,378.30
10	Enumerators	118,500.00
11	Focused Group Discussion	6,400.00
	Total	348,074.80

Fund balance as on Asad 31 , 2061	100.20
Represented by	<u>NRs.</u>
Cash and Bank	100.20
Advance	-
Tax Payable	-
Total	<u>100.20</u>

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission
 Harihar Bhawan, Pulchok, Lalitpur
Yearly Financial statement for the Fiscal year 2060/061

Project Title : Assesment of Human Rights Protection of women in police cell of Nepal.
 Project Start : 15th July, 2003
 Donner's Name : **The Asia Foundation**
 Bank Name : Himalayan Bank Ltd. Pulchok
 Account No. : 006-00329300018

Opening Fund balance	<u>Amount NRs.</u>
Cash and Bank	-
Advance	-
Tax Payable	-
Total	-
Fund Received during this period	322,000.00
Fund Refund during this period	-
Total	<u>322,000.00</u>

Expenditure for the month of Shrawan 1, 2060 to Asad 31, 2061

A/c Head	Description	Amount NRs.
1	Consultant	45,000.00
2	Perdiem for researcher	71,500.00
3	Administrative assistant	35,000.00
4	Computer hire	-
5	Report preparation	-
6	Communication/stationery	22,243.48
7	Transportation	40,729.00
8	Workshop Dissemination	-
	Total	<u>214,472.48</u>

Fund balance as on Asad 31 , 2061	107,527.52
Represented by	<u>NRs.</u>
Cash and Bank	107,527.52
Advance	-
Tax Payable	-
Total	<u>107,527.52</u>

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission

Harihar Bhawan, Pulchok, Lalitpur

Program Activity Title : Study of torture and disabilities Attributable to the maoist Insurgency

Donner's Name : **British Embassy**

Bank Name : Himalayan Bank Ltd., Pulchok

Account No. : 006-00329300018

Financial Statement of financial year 060/061

Income			Expenditure		
S.N.	Particulars	Amount (Rs.)	S.N.	Particulars	Amount (Rs.)
I	Balance b/d	8,996.08		Tax entry	3,240.00
				Add : Bank balance	5,756.08
	Total	8,996.08		Total	8,996.08

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission

Harihar Bhawan, Pulchok, Lalitpur

Program Activity Title :
 Donor's Name : **NORAD**
 Bank Name : Himalayan Bank Ltd., Pulchok
 Account No. : 006-00329300018

Financial Statement of financial year 060/061

Income

Expenditure

S.N.	Particulars	Amount (Rs.)	S.N.	Particulars	Amount (Rs.)
I	Balance b/d	2,771.00		Balance c/d	2,771.00
	Total	2,771.00		Total	2,771.00

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission

Harihar Bhawan, Pulchok, Lalitpur

Program Activity Title : NHRC fact finding mission to be sent to maoist Insurgency affected districts

Donner's Name : **Royal Norwegian Embassy and Royal Danish Embassy**

Bank Name : Himalayan Bank Ltd., Pulchok

Account No. : 006-00329300018

Financial Statement of financial year 060/061

Income			Expenditure		
S.N.	Particulars	Amount (Rs.)	S.N.	Particulars	Amount (Rs.)
I	Balance b/d	33,264.35		Balance c/d	33,264.35
	Total	33,264.35		Total	33,264.35

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission
 Harihar Bhawan, Pulchok, Lalitpur
Yearly Financial statement for the Fiscal year 2060/061

Project Title :
 Project Start :
 Donner's Name : **CDNHRC**
 Bank Name : Himalayan Bank Ltd., Pulchok
 Account No. : 006-00329300018

Opening Fund balance	Amount NRs.
Cash and Bank	7,100.03
Advance	-
Tax Payable	-
Total	7,100.03
Fund Received during this period	40,000.00
Fund Refund during this period	-
Total	47,100.03

Expenditure for the month of Shrawan 1, 2060 to Asad 31, 2061

A/c Head	Description	Amount NRs.
I	Electricity expenses	45,907.24
	Total	45,907.24

Fund balance as on Asad 31, 2061	1,192.79
Represented by	NRs.
Cash and Bank	1,192.79
Advance	-
Tax Payable	-
Total	1,192.79

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission
 Harihar Bhawan, Pulchok, Lalitpur
Yearly Financial statement for the Fiscal year 2060/061

Project Title :
 Project Start :
 Donner's Name : Miscellaneous Income
 Bank Name : Himalayan Bank Ltd., Pulchok
 Account No. : 006-00329300018

Opening Fund balance	<u>Amount NRs.</u>
Cash and Bank	18.91
Advance	-
Tax Payable	-
Total	<u>18.91</u>
Fund Received during this period	5,852.95
Fund Refund during this period	-
Total	<u><u>5,871.86</u></u>

Expenditure for the month of Shrawan I, 2060 to Asad 31,2061

A/c Head	Description	Amount NRs.
I	Bank Charge	500.00
	Total	500.00

Fund balance as on Asad 31 , 2061	<u>5,371.86</u>
Represented by	<u>NRs.</u>
Cash and Bank	5,371.86
Advance	-
Tax Payable	-
Total	<u><u>5,371.86</u></u>

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission
 Harihar Bhawan, Pulchok, Lalitpur
Office of the National Rapporteur on Trafficking in Women and Children
Fund Accountability statement for the Fiscal year 2060/061

Project Title : Trafficking in Women and Children
 Donner's Name : **JIT/UNDP**
 Bank Name : Himalayan Bank Ltd., Pulchok
 Account No. : 006-00329300018

Opening Fund balance	<u>Amount NRs.</u>
Cash and Bank	239,739.76
Advance	5,718.00
Tax Payable	(12,508.33)
Total	<u>232,949.43</u>
Fund Received during this period	1,461,242.78
Total	<u>1,694,192.21</u>

Expenditure for the month of Shrawan 1,2060 to Asad 31, 2061

A/c Head	Description	Amount Rs.
12.11	National Rapporteur	434,500.00
12.12	Consultant/ Assistant	204,283.88
12.13	Secretary	97,500.00
12.14	Support staff	5,400.00
12.23	Electronic equipments	-
12.24	Non expandable equipments	38,048.45
12.31	Monitoring, Evaluation, investigation & database	44,538.00
12.41	Workshop/ Meeting	203,492.19
12.51	Operation and Maintenance	134,389.68
12.52	Reporting Costs	108,773.39
12.53	Sundries	81,561.89
	Total	<u>1,352,487.48</u>

Fund balance as on Asad 31 , 2061	<u>341,704.73</u>
Represented by	<u>NRs.</u>
Cash and Bank	291,699.73
Advance	50,005.00
Tax Payable	-
Total	<u>341,704.73</u>

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission
 Harihar Bhawan, Pulchok, Lalitpur
Yearly Financial statement for the Fiscal year 2060/061

Project Title : Establishment of an outreach programme in selected districts in five development regions of Nepal.
 Project Start : 1 March , 2004
 Donner's Name : **European Union**
 Bank Name : Nepal Investment Bank Ltd., Pulchok
 Account No. : 004-7359900(Nrs.)
 Account No. : 004-731294 T(EURO)

Opening Fund balance	<u>Amount NRs.</u>
Cash and Bank	-
Advance	-
Tax Payable	-
Total	-
Fund Received during this period	<u>19,348,187.04</u>
Total	<u>19,348,187.04</u>

Expenditure for the month of Shrawan 1,2060 to Asad 31, 2061

A/c Head	Description	Amounts Nrs.
I.1.1	Technical/salary	448,000.00
I.1.2	Administrative/support staff salary	73,600.99
3.3	Furniture, computer equipment	10,058.12
4.4	Other services	128,416.55
	Total	660,075.66

Fund balance as on Asad 31 , 2061	<u>18,688,111.38</u>
Represented by	<u>NRs.</u>
Cash and Bank	18,688,111.38
Advance	-
Tax Payable	-
Total	<u>18,688,111.38</u>

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission
 Harihar Bhawan, Pulchok, Lalitpur
Fund Accountability statement for the Fiscal year 2060/061

Program Title : Human Rights Monitoring Project
 Donner's Name : **Royal Danish Embassy, Royal Norwegian Embassy and Royal British Embassy**
 Bank Name : Himalayan Bank Ltd., Pulchok
 Account No. : 006-00329300018

Opening Fund balance	Amount NRs.
Cash and Bank	32,352.09
Advance	-
Tax Payable	(900.00)
Total	31,452.09
Fund Received during this period	6,057,056.00
Total	6,088,508.09

Expenditure for the month of Shrawan 1,2060 to Asad 31, 2061

A/c Head	Description	Amounts
A	Personnel	850,849.58
B	Monitoring, Investigation, Documentation and Dissemination	3,026,317.62
C	Meeting and Advocacy	282,859.96
D	Training and Development	192,551.76
E	Collaboration with NGOs	218,614.89
F	Miscellaneous/operation of project	345,508.47
	Total	4,916,702.28

Fund balance as on Asad 31 , 2061	1,171,805.81
Represented by	NRs.
Cash and Bank	297,805.81
Advance of Yagya Raj Thapa	496,000.00
Advance of Surya Bahadur Deuja	378,000.00
Tax Payable	-
Total	1,171,805.81

Puspa Raj Katuwal
Account officer

Kedar Prasad Poudyal
Acting Secretary

National Human Rights Commission
Yearly Central Financial statement for the Fiscal year 2060/061

National Human Rights Commission
 Address : Harihar Bhawan, Pulchok, Lalitpur
 Budget Head No. : 30.3.140

Ma. Le. Pa. Fa. No. 17

Budget Head	Budget Amount	Approved Budget fig.	Suppl. In	Dr	4	5	Cash Transfer		Total Budget	Budget	Expense	Balance (Budget)	Remarks
							Increment	Decrement					
1	2	3	4	5	6	7	8	9	10	11	12		
1.01	Salary	3,765,000.00					129,000.00	3,636,000.00	3,528,672.56	3,528,672.56	107,327.44		
1.02	Allowance	100,000.00					44,530.00	55,470.00	43,470.00	43,470.00	12,000.00		
1.03	Medical Treatment	35,000.00					18,579.50	16,420.50	16,420.50	16,420.50	-		
2.01	Water/Electricity	225,000.00						225,000.00	224,800.16	224,800.16	199.84		
2.02	Telephone Trunkcall	300,000.00					100,000.00	200,000.00	200,000.00	200,000.00	-		
2.03	Office Expense	350,000.00				236,659.50		586,659.50	586,568.97	586,568.97	90.53		
2.04	Rent	100,000.00					30,000.00	70,000.00	68,000.00	68,000.00	2,000.00		
2.05	Maintenance	300,000.00				50,000.00		350,000.00	333,066.54	333,066.54	16,933.46		
2.06	Fuel	600,000.00						600,000.00	537,997.00	537,997.00	62,003.00		
2.07	Consultancy Charge	100,000.00					16,750.00	83,250.00	83,250.00	83,250.00	-		
2.08	Miscellaneous Expense	50,000.00				20,000.00		70,000.00	62,070.00	62,070.00	7,930.00		
4.05	Visit Expense	50,000.00					30,000.00	20,000.00	11,387.00	11,387.00	8,613.00		
6.01	Furniture	50,000.00				40,000.00		90,000.00	90,000.00	90,000.00	-		
6.02	Vehicles	975,000.00				22,200.00		997,200.00	997,200.00	997,200.00	-		
3.03	Others Aids	300,000.00						300,000.00	299,384.00	299,384.00	616.00	Cash Transfer from 95/3/901	
	Total	7,300,000.00				368,859.50	368,859.50	7,300,000.00	7,082,286.73	7,082,286.73	217,713.27		
	Budget(95/3/901)												
	I. Staff Welfare	32,740.00						32,740.00	32,740.00	32,740.00	-		
	Total Budget	32,740.00						32,740.00	32,740.00	32,740.00	-		
	Total	7,332,740.00				368,859.50	368,859.50	7,332,740.00	7,115,026.73	7,115,026.73	217,713.27		

1. Bank Name : Nepal Bank Ltd., Lalitpur

3. Bank balance :

5. Cash balance :

6. Total or payable cheque amount :

2. Bank Account No. Sa. Ka. 243 Kha I General

4. Advance balance: 10,000.00

(i) Last financial year total Rs. 1,000.00

(ii) This financial year total Rs. 9,000.00

Total : Rs. 10,000.00

Approved By :

Post :

Date : 2061/4/14

Prepared By :

Post :

Date : 2061/4/14

Audit Report and Current Situation

Regular Expenditure

Ba. Shi. Na. 30/3/140

Office: National Human Rights Commission, Harihar Bhavan, Lalitpur

Fiscal Year 2002/03

S. No.	J.V.No. and Date	Particulars	Amount	Commission's Remarks																												
1		<p>A sum of Rs. 55,00,000.00 was budgeted under this subheading for this fiscal year and a sum of Rs. 55,34,436.71 was released and spent. The accounts were audited and the conclusions of the discussions held on the audit report are as given below: According to Section 18 (a) of the Civil Service Act, a government employee cannot be sent on deputation for more than three months in a year; a permission from the Ministry of General Administration is required when a civil servant is sent on deputation to an organization which does not have a civil service position or is returned from deputation from such an organization; and if no such permission is obtained, the amount of the salary, allowances and other benefits enjoyed by the civil servant during the period will be treated as government arrears and recovered from the official who has done the deputation. The following employees were deputed to this project from various units for three months. However, it is seen that not only had the period of their deputation expired prior to the present fiscal year, no authorization was obtained from the Ministry of General Administration. The amounts paid to them by way of salaries and allowances as shown below infringe Section 18 (a) of the Civil Service Act and Subsection 3 of the same act provides for recovering those amounts from the official who has deputed them.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Deputing Office</th> <th style="text-align: center;">Deputed Employees</th> <th style="text-align: center;">Duration</th> <th style="text-align: center;">Salary Received including grade</th> <th style="text-align: center;">Dashain Expense</th> <th style="text-align: center;">Provident Fund Supplement</th> <th style="text-align: center;">Total Salary including PF Supplement</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Office of the Attorney General</td> <td style="text-align: center;">Sha. A. Man B. Karki</td> <td style="text-align: center;">Nov. 16, 2000</td> <td style="text-align: right;">50,532.00</td> <td style="text-align: right;">8,422.00</td> <td style="text-align: right;">5,053.20</td> <td style="text-align: right;">64,007.20</td> </tr> <tr> <td style="text-align: center;">Office of the Comptroller General</td> <td style="text-align: center;">Le. Pa. Shreekrishna Khadka</td> <td style="text-align: center;">Feb. 7, 2001</td> <td style="text-align: right;">81,432.00</td> <td style="text-align: right;">6,768.00</td> <td style="text-align: right;">8,143.20</td> <td style="text-align: right;">96,361.20</td> </tr> <tr> <td style="text-align: center;">Office of the Attorney General</td> <td style="text-align: center;">U. Sa. Amrit B. Basnet</td> <td></td> <td style="text-align: right;">87,624.00</td> <td style="text-align: right;">9,736.00</td> <td style="text-align: right;">8,762.40</td> <td style="text-align: right;">106,122.40</td> </tr> </tbody> </table>	Deputing Office	Deputed Employees	Duration	Salary Received including grade	Dashain Expense	Provident Fund Supplement	Total Salary including PF Supplement	Office of the Attorney General	Sha. A. Man B. Karki	Nov. 16, 2000	50,532.00	8,422.00	5,053.20	64,007.20	Office of the Comptroller General	Le. Pa. Shreekrishna Khadka	Feb. 7, 2001	81,432.00	6,768.00	8,143.20	96,361.20	Office of the Attorney General	U. Sa. Amrit B. Basnet		87,624.00	9,736.00	8,762.40	106,122.40		<p>The Commission is an independent and autonomous unit. And as special arrangements have been made by law as can be seen in Section 18 Subsection (2) of the Human Rights Commission Act, 1997 which states that "the Commission can requisition the necessary staff from His Majesty's Government", the said irregularity is in the process of being reaudited.</p>
Deputing Office	Deputed Employees	Duration	Salary Received including grade	Dashain Expense	Provident Fund Supplement	Total Salary including PF Supplement																										
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S. No.	J.V.No. and Date	Particulars	Amount	Commission's Remarks
2	7-August 21, 2002	The office should have paid its electricity bills on time and received a rebate, but it fell behind in paying the bill for the month of July-August 2002, thereby incurring a fine of Rs. 626.86. The amount was shown as expenditure and is an avoidable extra burden.	626.86	With respect to the irregularity concerning the late payment of the electricity bill for the month of Shrawan 2059 and the fine amounting to Rs. 626.86 being shown as expenditure, the Commission would like to state that the electricity meter is checked on the 11th of each month. And as the funds were released only on August 21, 2002, no payments could be made during the month of July-August, which is the reason the Commission fell behind in paying its electricity bill and was fined.
3	20-December 17, 2002	When the office should have been prudent with the budget received, it paid Rs. 4,675.00 to World Vision Advertising of New Baneswar to publish a condolence message in the <i>Kantipur</i> of October 18, 2002 at the passing away of the mother of an official Shankarnath Adhikari. It was an unnecessary expense that was shown as expenditure and is outstanding.	4,675.00	Part of the said amount has been restored and the remainder is in the process of being recovered.
4	20-September 4, 2002	Rule 120 of the Financial Administration Regulations, 2000 states that advance payments made for travel programmes should be settled, and that if it is not done within the prescribed time limit, the outstanding amount plus interest at the rate of 10% for the period it is overdue should be recovered. Among the advance payments remaining unsettled till the end of this fiscal year, it is seen that the amount received by Sa. Pra. Subarna Thapa remains outstanding at the time of the audit. As per Rule 120 of the Financial Administration Regulations, 2000, the amount plus 10% interest is owing.	1,000.00	Correspondence is being carried out with the concerned employee regarding settlement of the advance payment.

S. No.	J.V.No. and Date	Particulars	Amount	Commission's Remarks																				
5		<p>According to Rule 17 (5) of the Value Added Tax Rules 1997, an invoice containing a tax officer's sign should be issued for taxable capital goods or goods sold in the value of more than Rs. 10,000 at a time when they are being transported. A tax officer's sign was not found on the invoices for the goods purchased from the sellers under the numbers and on the dates shown below. A certificate showing that the following amounts have been deposited at the concerned Inland Revenue Office needs to be submitted.</p> <table border="1" data-bbox="509 905 911 1591"> <thead> <tr> <th>No. and Date</th> <th>Invoice No.</th> <th>Name of Seller</th> <th>Description of Goods</th> <th>VAT Amount Paid</th> </tr> </thead> <tbody> <tr> <td>213-June 28, 2003</td> <td>151</td> <td>Dharma Enterprises, Lalitpur</td> <td>Tables and chairs</td> <td>4,214.00</td> </tr> <tr> <td></td> <td>035/032</td> <td>Megha Traders and Suppliers, Anamnagar</td> <td>Toner and textiles</td> <td>6,995.00</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td>11,209.00</td> </tr> </tbody> </table>	No. and Date	Invoice No.	Name of Seller	Description of Goods	VAT Amount Paid	213-June 28, 2003	151	Dharma Enterprises, Lalitpur	Tables and chairs	4,214.00		035/032	Megha Traders and Suppliers, Anamnagar	Toner and textiles	6,995.00					11,209.00	11,209.00	<p>The irregularity is in the process of being reaudited as the concerned Inland Revenue Office has been notified about the matter.</p>
No. and Date	Invoice No.	Name of Seller	Description of Goods	VAT Amount Paid																				
213-June 28, 2003	151	Dharma Enterprises, Lalitpur	Tables and chairs	4,214.00																				
	035/032	Megha Traders and Suppliers, Anamnagar	Toner and textiles	6,995.00																				
				11,209.00																				
6		<p>The Commission has rented a vehicle with registration number Ba. 1 Cha. 4093 from Ichhyaram Padiya of Chabahil for Rs. 15,500.00 per month from December 11, 2001 to December 11, 2002. According to the agreement, rental charges should have been paid up to December 11, 2002 only. However, payment was made for the whole month of November-December, and the extra amount of Rs. 2,583.00 for the five days remains outstanding.</p>	2,583.00	<p>Correspondence is being carried out with the concerned vehicle owner regarding settlement of the amount.</p>																				

**Budget Head No. : Foreign
National Human Rights Commission
Address : Harihar Bhawan, Pulchok, Lalitpur
Fiscal Year : 2059/60**

S. No.	J. V. No. and Date	Particulars	Amount	Commission's Remarks																
1	5, 9, 61, 73, 84, 1, 48, 37	<p>Out of the total income of Rs. 74,33,976.00 (which includes Rs. 55,42,137.97 carried over from Fiscal Year 2002/03 out of the amounts received by the National Human Rights Commission from different donors to carry out its varied activities plus Rs. 19,91,838.97 received from various donors this year), a sum of Rs. 15,23,441.00 is left over after deducting expenses amounting to Rs. 59,10,535.03. The accounts were audited and the conclusions of the discussions held on the audit report are as given below: The staff members were found to be using taxis when visiting different government offices in the course of their work instead of economizing by using less expensive means of transport. A sum of Rs. 7,860.00 has been shown as travelling expenses as below. Cheaper means of transport were not employed, and it is seen that the expense was not proper. The inappropriate expense is in the amount of</p> <table border="1" data-bbox="922 898 1036 1591"> <thead> <tr> <th>Name</th> <th>No. of Traveling Days</th> <th>Place</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>S.O. Bimal Prasad Baral</td> <td>6</td> <td>Overtime at the office</td> <td>1,200.00</td> </tr> <tr> <td>Acc.O. Shreekrishna Khadka</td> <td>28</td> <td>Tax Office, bank, office, etc.</td> <td>6,660.00</td> </tr> <tr> <td></td> <td></td> <td></td> <td><u>7,860.00</u></td> </tr> </tbody> </table>	Name	No. of Traveling Days	Place	Amount	S.O. Bimal Prasad Baral	6	Overtime at the office	1,200.00	Acc.O. Shreekrishna Khadka	28	Tax Office, bank, office, etc.	6,660.00				<u>7,860.00</u>	7,860.00	<p>The Commission requests that the irregularity shown in this section be re-audited because the amounts were spent on taxis for the following reasons: The Commission does not have its own vehicle to be used for official work, the staff have to work late even on holidays because the office is shorthanded and the workload is high, repeated visits have to be made to different offices in connection with accounts and work has to be done in a fast and efficient manner.</p>
Name	No. of Traveling Days	Place	Amount																	
S.O. Bimal Prasad Baral	6	Overtime at the office	1,200.00																	
Acc.O. Shreekrishna Khadka	28	Tax Office, bank, office, etc.	6,660.00																	
			<u>7,860.00</u>																	
2		<p>According to Rule 17 (5) of the Value Added Tax Rules 1997, an invoice containing a tax officer's sign should accompany taxable capital goods or goods sold in the value of more than Rs. 10,000 at a time when they are being transported. A tax officer's sign was not found on the invoices for the goods purchased from the sellers under the numbers and on the dates shown below. A certificate showing that the following amounts have been deposited at the concerned Inland Revenue Office needs to be submitted. The total amount is</p>	7,357.00	<p>The Commission would like to state that it is corresponding with the concerned sellers to submit a certificate showing that the amounts have been deposited at the Inland Revenue Office and that it has also notified the concerned Inland Revenue Office about the matter:</p>																

S. No.	J.V.No. and Date	Particulars				Amount	Commission's Remarks
	J.V.No./Date	Invoice No.	Name of Seller	Description of Goods	Amount		
	28-Aug.29,2002	04	Patan Traders, Lalitpur	Furniture	1,060.00		
	28-Sept.14, 2002	396	Doniv Production, Thahiti	Sleeping bag, raincoat	3,150.00		
	76-Sept.29, 2002	025	Susant Furniture Industries, New Baneshwar	Furniture	1,020.00		
	226-May28, 2003	022	Mega Traders & Suppliers, Anamnagar, Kathmandu	Toner cartridge, etc.	1,127.00		
	271-July16,2003	006	Laxman Enterprises, Asan	Cap,bag,etc.	1,000.00		
					<u>7,357.00</u>		
3	12-August 8, 2002	In Fiscal Year 2001/02, a bill for repair work amounting to Rs. 41,600.00 was attached and the amount was paid to Arc Engineers, Builders and Contractors Pvt. Ltd. It is seen that a bill was submitted again in this fiscal year with the reason that it had been omitted previously and that VAT amounting to Rs. 4,160 was paid. However, a certificate showing that the amount of the VAT has been deposited at the concerned office was not presented.				4,160.00	The Commission would like to state that it has written to Arc Engineers, Builders and Contractors Pvt. Ltd. to submit a certificate showing that the amount has been deposited at the Inland Revenue Office and that it has also notified the concerned Inland Revenue Office about the matter.
4	235-June 6, 2003	As per an agreement made on September 26, 2002 between the National Human Rights Commission and the Informal Sector Service Centre (INSEC), Kalanki, regional-level seminars were held in October 2002 in the eastern, western and far western regions. Among the bills presented, there was a telephone bill for the month of August/September 2002 of telephone number 01279184 belonging to South Asian of Human Rights amounting to Rs. 6,809.50 and another one for the month of August/September of telephone number 4280591 belonging to Chaturbhuji Gyawali of Siuchatar amounting to Rs. 2,929.74. It is seen that payments were made of the two amounts totaling Rs. 9,739.24. As these expenses were made before the agreement was done, they cannot be put down as actual expenses connected with the program. The amount is				9,739.24	The Commission would like to state that it has written to the Informal Sector Service Centre (INSEC) to settle the irregularity.

S. No.	J.V.No. and Date	Particulars	Amount	Commission's Remarks															
5	189-March 28, 2003	<p>During a visit made by the following staff members to Banke district from December 26, 2002 to January 1, 2003 to follow human rights, payment was made for their hotel accommodation in addition to paying them a daily allowance. As such double payment is improper, the amount that has to be collected is.</p> <table border="1" data-bbox="462 903 625 1575"> <thead> <tr> <th>Name of Staff</th> <th>Name of Hotel</th> <th>Amount Paid</th> </tr> </thead> <tbody> <tr> <td>Officer Anand Chand</td> <td>Hotel Apsara, Nepalgunj</td> <td>190.00</td> </tr> <tr> <td>Officer Abha Shrestha</td> <td>Hotel Apsara, Nepalgunj</td> <td>370.00</td> </tr> <tr> <td>Officer Abha Shrestha (Usha Kharel)</td> <td>Hungary Guest House Pvt. Ltd., Nepalgunj</td> <td>1,009.80</td> </tr> </tbody> </table>	Name of Staff	Name of Hotel	Amount Paid	Officer Anand Chand	Hotel Apsara, Nepalgunj	190.00	Officer Abha Shrestha	Hotel Apsara, Nepalgunj	370.00	Officer Abha Shrestha (Usha Kharel)	Hungary Guest House Pvt. Ltd., Nepalgunj	1,009.80	2,175.68	The Commission would like to state that action is being taken to collect the amount from the concerned staff members.			
Name of Staff	Name of Hotel	Amount Paid																	
Officer Anand Chand	Hotel Apsara, Nepalgunj	190.00																	
Officer Abha Shrestha	Hotel Apsara, Nepalgunj	370.00																	
Officer Abha Shrestha (Usha Kharel)	Hungary Guest House Pvt. Ltd., Nepalgunj	1,009.80																	
6		<p>According to 2.4 Description of Rent in the Classification and Description of Budgetary Expenses, rent has to be paid for the use of land and buildings, godowns, vehicles, machinery and such other capital goods. Section 88 (1) of the Income Tax Act 2001 says that tax has to be deducted at the rate of 15% on the total amount at the time payment is made. Taxes amounting to Rs. 2,310.00 have to be deducted on the rent paid for the goods on the dates and against the voucher numbers as given below according to Section 88 (1) of the Income Tax Act 2001, but it is seen that it has not happened</p> <table border="1" data-bbox="592 903 755 1575"> <thead> <tr> <th>J.V.No./Date</th> <th>Name of Payee</th> <th>Goods Rented</th> <th>Rent Paid</th> <th>Tax @ 15%</th> </tr> </thead> <tbody> <tr> <td>31-Aug 29, 2002</td> <td>Nepasa, New Road</td> <td>Sound system</td> <td>11,400.00</td> <td>1,710.00</td> </tr> <tr> <td>32-Aug 29, 2002</td> <td>Trade Union Mahasangh, Pyapahal</td> <td>LCD</td> <td>4,000.00</td> <td>600.00</td> </tr> </tbody> </table>	J.V.No./Date	Name of Payee	Goods Rented	Rent Paid	Tax @ 15%	31-Aug 29, 2002	Nepasa, New Road	Sound system	11,400.00	1,710.00	32-Aug 29, 2002	Trade Union Mahasangh, Pyapahal	LCD	4,000.00	600.00		The Commission would like to state that it has written to the concerned firms, and that after the tax amount has been collected it will be sent for reauditing.
J.V.No./Date	Name of Payee	Goods Rented	Rent Paid	Tax @ 15%															
31-Aug 29, 2002	Nepasa, New Road	Sound system	11,400.00	1,710.00															
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