

# Human Rights e-Newsletter

## National Human Rights Commission of Nepal

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### Case Withdrawal Provokes Public Forum Debate: Government's Action Flayed



*Participants at the dialogue entitled "High Level Panels and Public Forum" held on the case withdrawal of serious crimes*

**K**athmandu: NHRC Member Gauri Pradhan has said, 'Withdrawal of the cases has not only impeached the commitments enshrined in the CPA but also raised the question on the protection of human rights of victims and rule of law.'

Speaking at the programme entitled 'Case Withdrawals of Serious Crimes: High Level Panels and Public Forum' jointly organized by NHRC and OHCHR - Nepal, Member Pradhan said the question now is pervasive whether the government can withdraw the cases of grave human rights violation such as rape, killing, abduction and arbitrary property seizure. This has obligated the legal community to pay their attention to the provisions laid out in international legal framework.'

Member Pradhan further argued that prosecuting mechanism often has the right

to withdraw the cases if the allegation is not established through probe. This obviously protects the inherent rights of victims.

Addressing the programme, Jyoti Sanghera, Head of OHCHR-Nepal pointed out that it is in light of those commitments made through peace deal between Maoist and mainstream parties to the conflict that we must consider the case withdrawals, and whether or not the withdrawal of cases involving serious crimes implements or goes against the Government's commitments during and since the signing of the CPA.

'OHCHR-Nepal was pleased to hear from the Attorney General's Office that the Attorney General is also committed to preventing the inappropriate withdrawal of cases for serious crimes, such as those outlined in the joint legal opinion by NHRC and OHCHR,' said Ms Sanghera.

Presenting the paper, Raju Prasad Chapagain, legal advisor to OHCHR-Nepal elaborated various aspects of national and international legal provisions with regard to the withdrawal of cases of serious crimes and rights of victims.

Mr. Chapagain elaborated that Nepal, as a state party to international instruments, is to ensure judiciary remedy within its jurisdiction. The state deserves the corresponding obligation to register the case against the persons involved in human rights violations, take under custody and prosecute them under transitional justice delivery system.

Former NHRC Member Kapil Shrestha slammed the Government mechanism over hasty withdrawal of cases of serious crimes. Amidst such horse trading politics in the country, reconciliation is not possible, argued Mr. Shrestha.

Govinda Sharma "Bandi", Advocate warned if an attempt is made to bypass the justice system in the name of peace process; at no cost it will be successful.

Mandhav Poudel, former secretary, Law Ministry opined that 'Since CPA has opened the door for the case withdrawal, Criminalization of politics has been the root cause of problem. Civil society should be on high alert to

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### Exhumation Team Submits Anthropological Report on Godar Exhumation

**L**alitpur: The team of Janakpur exhumation submitted the preliminary anthropological report of human remains to NHRC amidst a programme held at NHRC on August 23, 2011.

Congratulating the exhumation team, Chairperson Justice Kedar Nath Upadhyay said that pursuit of justice is a long process and since exhumation is an integral part of investigation, we have to have the patience.



*Hon. Chairperson Justice Kedar Nath Upadhyay and Member Gauri Pradhan receiving the Anthropological Report on Janakpur Exhumation*

The Chairperson expressed his thanks to the exhumation team for the successful accomplishment of their hard work. He hoped that another segment of the report of ballistic objects would be made available to NHRC soon. This, he said, is equally important for the victims' family for they haven't performed the last religious rites of the deceased till today.

NHRC Member/ Spokesperson Gauri Pradhan lauded the relentless involvement of the exhumation team in the mission

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# Rights Watchdogs Observe Int'l Day of Disappeared: Case withdrawal irks victims' families

**L**alitpur: NHRC Chairperson Justice Kedar Nath Upadhyay has said that NHRC would seek explanation from the government why it decided to withdraw cases against criminals as part of proclaimed policy adopted by the newly formed government.

Speaking at the programme organized by the Commission to mark International Day of the Disappeared on August 30, 2011, Chairperson said, 'NHRC would demand the list of those to be granted general amnesty and would find out the nature of cases against them.

Lamenting over the objectionable decision of the government to reward immunity to the criminals of heinous crime of human rights violation, the Chairperson slammed the government for making such a sensitive issue to thump a political bargain.

'We have recommended to the government to provide Rs 100,000 as interim relief to the kin of those listed as disappeared and Rs 300,000 for those whose beloved ones were found to have

been killed after disappearance,' said the Chairperson.

'It is the right of those victims' family under acute trauma to know about the condition of the



*Hon. Chairperson Justice Kedar Nath Upadhyay, OHCHR Head Jyoti Sanghera and founder of Amnesty Int'l - Nepal Nutan Thapaliya with the representative's of victims families at the programme held to mark the Int'l Day of Disappeared*

missing members of their family and the government is obligated to find out at least the remains so that the religious rites could be performed by their families,' added the Chairperson.

The Chairperson also urged the parliament to pass the long pending bill on formation of the Commission on Disappearance

and Truth and Reconciliation Commission (TRC) without any dilly-dallying. Human rights activists including Mandira Sharma, Sushil Pyakurel, Nutan Thapaliya, representative of

victims' families duo Sabitiri Dura and Ram Kumar Bhandari unanimously expressed their condemnation to the decision to give amnesty to the accused of war crime.

Expressing deepest sympathy to the families of the conflict victims, OHCHR Head Jyoti Shanghera, said that justice delayed would

further stigmatize the victims. Access to truth and justice being the fundamental human rights, therefore, the state obligation to make this happen is the need of the hour.

Secretary of Prime Minister's Office Trilochan Upreti informed that out of Rs 110 million allocated by the government, Rs 100 million has already been spent on relief provided to the families of the conflict victims.

Meanwhile, as per the report released by the NHRC, out of 3,444 persons disappeared during the conflict period by the state and the then rebellion party CPN (Maoist), 190 have been already killed. The report also says out of 2,325 persons disappeared by state security agencies, whereabouts of 1,561 have been traced and the status of 619 still remains unknown. Of 1,119 persons disappeared by the former rebel party, 904 have been released and 170 are still missing.

During the programme, Human Rights officers duo Regam Maharjan and Shyam Babu Kafle presented the paper on the NHRC activities on disappearances issues. 25 human rights related NGOs and INGOs jointly participated in the programme and expressed their solidarity with the coalition.

## JOINT PRESS STATEMENT

Monday 29 August 2011

# Enact law on Enforced Disappearances: NHRC, OHCHR

**K**athmandu - "There is an urgent and genuine need for accountability for serious human rights violations, including cases of enforced disappearance committed during the decade long conflict in Nepal," reads a joint press statement released by the National Human Rights Commission (NHRC) of Nepal and the United Nations Human Rights Office in Nepal.

The 30th of August is commemorated around the world as the International Day of the Disappeared. Thousands of people in Nepal were disappeared during the armed conflict.

According to the latest statistics of the NHRC, the whereabouts of 835 persons are still not known.. Their family and friends are still waiting in hope to know what has happened to them.

The Comprehensive Peace Agreement (CPA), signed in November 2006, provides for the situation of the disappeared to be made public within 60 days. Since then, different governments have also expressed commitments time and again to clarify the fate of the disappeared. In addition, a Supreme Court decision, from 1 June 2007, orders the Government to enact a new law to criminalize enforced disappearance and to establish an independent high level Commission of Inquiry on Disappearances, in line with the International Convention for the Protection of all Persons from Enforced Disappearance.

Human rights violations and abuses during the conflict need to be investigated and action taken against the perpetrators to ensure justice.

Additionally, transitional justice mechanisms must ensure the right to truth, relief, rehabilitation, compensation and reparation for victim's families.

Now, almost five years since the CPA, the NHRC and UN express their concern over the failure to carry out satisfactory initiatives towards making public the whereabouts of the disappeared and to implement the recommendations of the NHRC and OHCHR that legal action be taken against the perpetrators of disappearances.

This has created a terrible situation of impunity. On the occasion of the International Day of the Disappeared, the NHRC and UN wish to draw the attention of Government of Nepal:

- To immediately make public the status of persons disappeared during the armed conflict.
- To immediately declare the acts of enforced disappearance as a criminal offence and to formulate laws as per the international standards.
- To ratify the international convention regarding the protection of all individuals from enforced disappearance.
- To establish the independent commission to probe into the incidents of enforced disappearance.
- To ensure that persons alleged to have committed disappearances are suspended from office during investigation.
- To immediately implement the Supreme Court's order and recommendations of National Human Rights Commission.

NHRC

OHCHR-Nepal

# Media persons endure series of violent attacks in East NHRC urges respect for Free Press and Freedom of Expression



NHRC Officials and the Cadres of CPN (UML) at a discussion held at Biratnagar

**L**alitpur: The NHRC, by issuing a press release, has expressed serious concern over the series of incidents of attacks on the journalists in various districts of the eastern region.

NHRC Regional Office - Biratnagar has monitored the situation of the right to freedom of expression in the eastern region mainly focusing five different districts including Jhapa, Morang, Sankhuwasabha, Siraha and Sunsari on the basis of the news published in various newspapers.

As per the press release, NHRC, Biratnagar office held discussion with the office bearers of the CPN (UML) and youth organization and drew their attention towards the threats harbored against the communication and media and urged to respect the right to freedom of expression.

During monitoring, it has been found that the leaders and the cadres of the Youth Organization are said to have publicly announced the physical action against the journalists. Blaming over the media report, miscreants have attacked with Khukuri fatally injuring Journalist Kishor Budhathoki. In another incident, the underground group (Bhagat Singh faction) of Terai is reported to have given 35 days ultimatum to the journalists of physical action in Jhapa if they

fail to publish or broadcast the news materials in Maithali language. Similarly, another underground group has announced the physical action against journalist Santosh Yadav. Yet another incident of death threat has been allegedly announced against Keshav Ghimire, the editor of Dahran based daily Fast Times.

Press release further says that it is the matter of serious concern that some of these incidents are taking place under the political shelter and support. It is due to the dispirited step of the concerned authorities to book those accused of the incidents targeted to the press and take prompt action as per law, the media sector is passing through the state of affairs such as "Self Censorship."

NHRC has, therefore, urged all the concerned to cease the incidents of threats and attack and if disagreed on the matters published or broadcast, follow the process legally and respect the freedom of expression. Also, the Commission has urged the entire journalist society to comply with the code of conduct of journalism practice.

Since the freedom of expression is constitutionally provisioned as fundamental rights, NHRC has appealed to the Government of Nepal to exploit all options to protect these rights and identify the culprits and bring them to justice at the earliest, reads the press release.

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## Exhumation Team Submits....

despite unfavorable weather condition. Member Pradhan remarked that the case has been seriously taken nationally and internationally.

Thanking the national forensic expert Dr. Hairhar Wasti, international anthropologist Udo Kenzer and Prof. Helena Ranta and all involved in the mission in the ground, Member Pradhan said that exhumation being entailed with series of processes; it was a learning experience for the team members.

NHRC will go through the report submitted and wish the national forensic laboratory and the Helsinki University Finland to consider a bit more focusing on DNA report, urged Member Pradhan.

Dr Wasti, the technical team leader of the exhumation, expressed his thanks to the NHRC and all involved in the exhumation. 'Had we not received the wholehearted support from the concerned government agencies, civil society, police department including the local residents to accomplish such a sensitive mission, the task to bring to this stage would have been a mere dream,' said Mr. Wasti.

Mr. Udo Krenzer, the international anthropologist said, 'History dates back to 2003 and it took almost 6 years to take along the exhumation mission. The year 2010 remained the hectic year of activities such as sample collection, analysis and so on. He said that the final report of human remains is being delayed due to some technical reason. This, he said, would allow the authorities to go with legal process in the meantime to find out the truth.

He added that the process of scientific analysis is also the part of investigation. He, however, urged not to over interpret the mission's outcome to proclaim justice. This allows the competent authority to find out the truth at the end of the day.

Chairperson, in his closing remark, expressed his hope that the report will contribute very much to constitute valuable and dependable evidences that would pave the way for the legal settlement and at the end of the day justice will be delivered to the victims and the perpetrators will be dragged to justice.

Continued from page 1

## Case Withdrawal....

look into such an act and warn against any untoward such as the withdrawal of cases of serious crimes against humanity.

The content in the jurisprudence manifests that amnesty and immunity should not sideline or intercept the criminal justice process. Appropriateness of the case withdrawals should be

determined through the substantial decision that the court dispenses, argued Mr. Poudel.

The participants representing various organizations debated on whether or not the withdrawal of cases deserves legitimacy as per the law of the land. They said that albeit democracy is the by-product of rule of law, everything including the case withdrawal seems to be backed up

by the flawed culture. This surely encourages the culture of impunity to soar to its height.

Shanker Koirala, representative of Home Ministry, Prof. Kapil Shrestha - former NHRC member, Biswa Kanta Mainali, former Chair of Nepal Bar Association, Govinda Sharma ( Bandi), Mandhav Poudel, former secretary, Law Ministry, Shekhar Poudel, Judge - Kathmandu District Court,

Kin of victims also shared their views during the programme.

The comments and feedbacks were collected from the participants who comprised of the representatives of government ministries and agencies, CA members, legal professionals, civil society members, representatives of various NGOs and media persons.

# NHRC, GCN Document the Plight of Elder Abuse: Rights of Senior Citizens Stressed

Lalitpur: The book entitled "Baseline study on Reported Cases of Elder Abuse in Nepal" was released by NHRC Chairperson Justice Kedar Nath Upadhyay amidst a programme held at NHRC on August 29, 2011.

The book is jointly published by NHRC and Geriatric Center Nepal. Established in early 2009, GCN is committed to working with a holistic approach towards providing the senior citizens with better physical, mental and spiritual care.

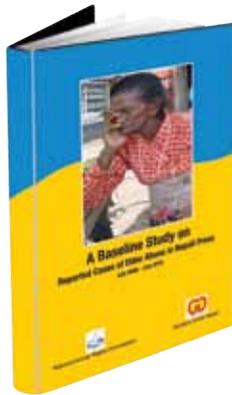
With an objective to make available the information for proper understanding of the magnitude and characteristics of Elder Abuse in our society, Geriatric Center Nepal (GCN) took this initiative to compile the cases of elder abuse reported in two prominent national dailies, Kantipur and Annapurna Post from July 2008 to July 2010 and published in the form of a bilingual book.

Addressing the programme, Chairperson Justice Kedar Nath Upadhyay said, 'Rights of senior citizens is not just the concern of the senior citizens but also it is the concern of entire society. They are the bearer of culture, customs and traditions. The publication is an eye-opener and the next step should be the spot monitoring rather than a media monitoring approach. It is necessary because there are various cases of elder abuse that go unreported and get rot away.'

Congratulating the work of Mr. Krishna Murari Gautam for the contribution, the Chairperson suggested that GCN needs to indulge itself more on research and human rights activists need to collaborate for raising awareness about this issue

Addressing the programme, Member Ram Nagina Singh said, 'Government has various laws and provisions for the protection of the rights of senior citizen but it has failed to implement them effectively due to lack of proper planning and corruption committed by civil servants.'

Member Singh also pointed out that there should be a monitoring mechanism to discover the violation of the rights perpetuated on senior citizens and the allocation of allowance meant for them. Lauding the



initiative taken by GCN, Member Singh also asked everyone to respect the rights of the senior citizens.

Director Achyut Acharya, as a programme moderator, said that publication of the book is a milestone for the protection and promotion of the rights of the senior citizens.

Director Bed Bhattarai said that the report can be effective in inculcating respect for the rights of senior citizens and contributing to the plans and programmes of the government. He also mentioned that NHRC has included the promotion and protection of the rights of senior citizens in its strategic plan.

Mr. Krishna Murari Gautam, Chairperson of GCN presented the paper including the comprehensive research on elderly abuse. Following the paper presentation, Surya Shrestha, Spokesperson of Ministry of Women and Children and Social Welfare shared a few words. Dr. Gauri Shankar Ram Das, Former NHRC Member stated that there are not many reported statistics on this issue.

The participants comprised of the representatives from various civil society organizations, government officials, human rights activists, security personnel, legal professionals, media, and officials from Geriatric Center-Nepal including the NHRC officials and staff members.



Hon. Chairperson releasing the book entitled "Baseline Study on Reported case of Elder Abuse" jointly published by NHRC and GCN

## The ICRC-Nepal Team called on NHRC: NHRC Officers and Staff attend Refreshment Trg. on IHL

Lalitpur: Member Gauri Pradhan has said, 'At a time when the country has been passing through the transitional phase to peaceful era, it becomes imperative for all of us to bear the knowledge of IHL.'

Addressing the programme on IHL and Missing Persons held in cooperation with ICRC - Nepal on August 10, 2011, Member Pradhan said 'Though things are not happening as per the process, the persons involved in the crimes against humanity will be booked one day or the other. NHRC has received 1000 complaints of the conflict related cases whose evidences have been discovered one after another and, at times, NHRC has come across crimes against humanity.'

Christopher Harland, the Regional Legal Advisor of South Asian Region, made his presentation on

the contemporary issues of IHL and its relation to human rights. Mr. Harland threw light on the difference and similarity between the international human rights conventions and international humanitarian law. Elaborating the non-derogable rights, Mr. Harland also elucidated the rights that compliment both human rights and humanitarian law. He also went on to feature the domestic applicability of IHL in contemporary situation of Nepal, recent development on ICRC and its applicability in Arab Uprising.

As the IHL standard is used in various circumstances in the war/conflict hit countries; Mr. Harland accounted the standards furnished in the IHL with volume of examples.

Ms Laure Schneeberger, Deputy Head of the ICRC- Nepal, offered her presentation on Missing Persons and their plight. She shed light

on the ICRC initiatives undertaken at request for the humanitarian relief and welfare of the conflict victims in Nepal including exhumation mission. She also enumerated the differentiation and proximity of the terminologies "Enforced Disappearance" and "Missing persons." More specifically, ICRC commonly uses the term Missing person for the person disappeared in doubtful circumstance during the war or conflict, clarified Ms Schneeberger.

After the presentation, resource persons responded to the issues raised by the participants.

Responding the issues raised by the NHRC staff members, Mr Harland clarified the curiosities of the participants on the limitations of the use of IHL standards during the post conflict scenario. To the query of Hemang

## Regional Level Workshop on Rights of Senior Citizens held in West NHRC, Civil society to work for the Rights of Senior Citizens



Hon. Member Ram Nagina Singh, Deputy Director Yagya Prasad Adhikari among others at a programme held at Pokhara

**K**aski: NHRC Western Regional Office, Pokhara organized a workshop on the rights of senior citizens and the roles of stakeholders in protecting their rights. NHRC Member Ram Nagina Singh was the Guest of Honor of the programme whereas Deputy Director Yagya Prasad Adhikari chaired the programme.

NHRC Deputy Director Durga Khadka threw light on the objective of the programme. Similarly, the Planning Officer of Kaski District development Committee, Jeevan Gyawali shed light on Social Security

Programme introduced for the protection of rights of senior citizens.

The participants offered their views and comments that the government needs to provide the senior citizens with their rights along with the amendment in the discriminatory definition of senior citizens.

They mentioned that the state has to be considerate on the rights of the senior citizens, provide enough social security services and have the arrangement of legal provisions for the protection of their rights in the would-

be framed constitution. They also mentioned that Nepal as a party to various treaties and convention for the protection of human rights has failed to effectively implement such provisions.

Realizing the increasing number of neglected senior citizens and the problems that has emerged in recent days, it was discussed that various NGOs, civil society leaders, human rights defenders collaborate to evoke the promptness of the government to take action towards improving the status of senior citizens.

The participants simultaneously urged that NHRC recommend the GoN to provide social security services and facilities to senior citizens that can be accessible nationwide. They pointed out in unison that it is obligatory on the part of NHRC to draw attention of the concerned to this significant concern of senior citizens and conduct such programmes on senior citizens prioritizing the remote areas of the country.

The programme concluded with the efforts made to recognize the status and existing problems faced by senior citizens in western region which eventually facilitated NHRC to identify the areas to embark upon with initiatives for the benefit of senior citizens and the protection of their rights in the days ahead.

59 participants consisting of the NHRC commissioner, representatives of the various non-governmental organizations, civil society members, media personnel and district level government officials among others took part in the programme.

## Detention Centers yet to Experience Improvement: NHRC Monitoring Team forwards Recommendations

**Dhanusha:** The NHRC team under monitoring mission carried out an inspection of the situation of detention at district police office of Dhanusha district from August 12 - 17, 2011.

A detainee kept at the area police office, Mahendra Nagar, was said to have been tortured, underwent health check up at the presence of the NHRC monitoring team. As discovered through the monitoring, in spite of the fact that the detention had a toilet facility, the detainees were forced to pass urine in a bucket. The team instantaneously drew the attention of the head of the concerned office towards this inhuman practice.

Upon conducting the monitoring, the team made a few recommendations including the

urinal faculties, departmental action against the office head of the detention. Also recommended were the training to the officials of the concerned government offices to orient them on the skill development with regard to the method of scientific investigation, comprehensive monitoring on the detention centers and to evolve the measure to improve the physical infrastructure of the detention centers.

The team has also recommended that its an obligation on the part of the government to demand the detail information of the detention center and conduct study on the information, hold discussions from time to time between the administration, security personnel, and CA members and exchange the legal provisions against torture to build an environment in

which the NHRC monitoring teams are rendered ample access to the detention centers.

Similarly, the team has recommended to make an arrangement for the installation of suggestion box in each of the detention centers and assign responsibility to any of the government officials to coordinate with NHRC in order to entertain the suggestions forwarded.

Since a few of the provisions furnished herein are related to rights against torture (Optional Protocol) it was recommended to ask the government for the signing of the protocol through Legal and Aid Division (LAD). In case of the lack of laws, recommend the government to promulgate such laws without any obliviousness, emphasized the monitoring team.

# Complaints received during the months of June /July, 2011

S.N.	Cases of Human rights Violations	Responsible parties	Central Office	Regional Offices					Sub Regional Offices			Total
			Lalitpur	Biratnagar	Janakpur	Pokhara	Nepalgunj	Dhangadhi	Butwal	Khotang	Jumla	Total
1	Killing	Security Forces (Including Custodial Death)						No complaint was registered in this region				
		Others	1									1
2	Disappearance/ Abduction	Security forces	2		1	1						4
		Others				1	1		1			3
3	Torture/ Abuses	Security forces									1	1
		Others										
4	Injury / Beating	Security forces										
		Others										
5	Displacement	Security forces										
		Others										
6	Property Seizure/ Confiscation	Security forces										
		Others							1			1
7	Threat	Security forces										
		Others	2						1			3
8	Prison / Detention								1			1
9	Compensation											
10	Civil rights			1	1						2	
11	Economic, Social and Cultural Rights				1			1			2	
12	Women's Rights			2				1	4		7	
13	Child rights		3								3	
14	Administrative Justice		2	4		2					8	
15	Migrant Rights											
16	Others											
	<b>Total</b>		<b>10</b>	<b>6</b>	<b>2</b>	<b>6</b>	<b>1</b>	<b>0</b>	<b>6</b>	<b>4</b>	<b>1</b>	<b>36</b>

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## The ICRC-Nepal Team....

Sharma, National Project manger of SCNHRC, whether the IHL, as learned through some sources, supplemented with new dimension in recent days, Mr. Harland made it clear that decision is yet to come to the light if at all it is deemed.

Both the experts, on behalf of ICRC-Nepal, expressed their willingness to continue their cooperation and collaboration for any work that NHRC would do for human rights and humanity in the days to come.

Member Gauri Pradhan, the ICRC delegates, Secretary Bishal Khanal and NHRC Officers and staff members were present at the programme. The programme was facilitated by HR Officer Suresh Malla.

During the decade long armed conflict, the country had to bear the loss of 17,000 people, about 17500 people fled their home of habitual residence and many more became the victims of internal displacement, arbitrary arrest and atrocities. The conflict ended leaving the scar in the memories of the people with their beloved ones missing and properties worth billions of rupees damaged.

# Training Held on Capacity Development of HR Defenders



Hon. Member Ram Nagina Singh, Secretary Bishal Khanal, Director Subarna Karmacharya and Special Rapporteur Padma Mathema during the Training held on HRBA to Development at NHRC

**L**alitpur: A two day training on capacity development of HR defenders was organized from August -4-5, 2011 by NHRC in coordination with National Alliance for Human Rights of Indigenous People (NAHRIP)

The objective of the programme was to train human rights defenders on HR related issues, enhance their capacity and knowledge on human rights of the minorities, indigenous community and women as outlined in the NHRC's core value of equality and equity.

Achyut Acharya, Deputy Director of NHRC, delivering the welcome speech, threw light on the objectives of the programme and thanked NAHRIP for having organized the training in coordination with NHRC. HR officer Suresh Malla facilitated the programme.

Member Ram Nagina Singh pointed out that defending human rights in a country like ours is a very challenging task and the programme aims to inform the HR defenders on the challenges as well. He briefly shed

light on various international treaties and conventions on human rights. He also urged HR defenders to comply with the code of conduct within the boundaries of their duties in order to protect rights of general denizens.

Addressing the programme, Ram Kumari Tamang, Chairperson of NAHRIP narrated about the incident of a female monk named Sangita Tamang who was gang raped in a bus a couple months ago. She emphasized that women and the minority group are still facing injustice and the HR defenders need to build up their capacity to better understand the situation of HR in Nepal.

NHRC Secretary Bishal Khanal informed that the rights of the indigenous people are on the verge of extinction. He mentioned that the training as such would contribute towards restoring those rights and also towards protecting their rights. He requested the trainees to apply what they would learn as an HR defender, either to save a life, stop a crime or deal with any issues of HR. He also said that an HR defender, as the flag bearer of Human Rights, requires an appetite for struggle, dedication and commitment.

Human Rights Officers of NHRC and invitee legal professionals provided the training on various UN conventions and treaties including roles and responsibilities of HR defenders, national and international mechanisms for the protection of human rights.

Towards the end of the each training session, all the trainees solicited their evaluation training regarding the achievements of the training and its deficiencies.

Overall, the training programme was a success. The participating trainees provided their comments and suggestions on the training. They also urged that NHRC should organize more programmes to cognize the minority groups about their rights, develop the capacity of HR defenders, create awareness on various HR issues, and collaborate with various NGOs and civil society in the days to come.

## “Sachetana”

A Weekly Human Right Radio Bulletin

Prepared and Broadcast by Radio Sagarmatha in collaboration with **National Human Rights Commission**  
For the Promotion of Human Rights Culture

**Our voice can be heard every Saturday morning on various Radio Stations of the Country:**

Radio Station	Frequency	Location	On air time
Radio Sagarmatha	FM 102.4 M Hz.	Bakhundol, Lalitpur	SAT 7:00-7:30 am
Nepalbani FM	FM94.9 MHz	Ilam Bazaar, Ilam	SAT 7:30-8:00 am
B FM	FM 91.2 M Hz.	Biratnagar, Morang	SAT 7:30-8:00 am
Radio Rupakot	FM 105 M Hz.	Diktel, Khotang	SAT 7:30-8:00 am
Radio Janakpur	FM 97 M Hz.	Janakpur, Dhanusa	SAT 7:30-8:00 am
Radio Triveni	FM 100.6	Chitawan	SAT 8:20-8:50 am
Radio Gandaki	FM 90.2 M Hz.	Pokhara, Kaski	SAT 8:00-8:30 am
Radio Lumbini	FM 96.8 M Hz.	Manigram, Rupandehi	SAT 7:00-7:30 am
Radio Krishnasar	FM 94 M Hz.	Nepalgunj, Banke	SAT 7:00-7:30 am
Radio Karnali	FM 105.2 M Hz.	Mahat, Jumla	SAT 7:00-7:30 am
Radio Suklaphanta	FM 99.4 MHz	Mahendra Nagar, Kanchanpur	SAT 7:15-7:45 pm
Radio Sudoor Awaj	FM 95 MHz	Dadeldhura	SAT 8:30-9:00 am

For details, please visit: [http://www.nhrcnepal.org//radio\\_program.php](http://www.nhrcnepal.org//radio_program.php)

# Torture Inflicted on Dowry issue Leads to Suicide

## NHRC places recommendations on evil practices in Society



Budha Narayan Sahani, Officiating Director of NHRC Janakpur Office and Jeevan Neupane, HR Officer taking statement from the victim's family members during an investigation in Rautahat District

Rautahat: The NHRC monitoring team carried out the monitoring on the incident of a suicide case committed by a recently wed Kiran Shah on July 17, 2011. She was said to have been inflicted torture on the dowry issue in Chandranigahpur VDC in Rautahat district as per the complaint lodged at the Commission. The complaint contained that no effective investigation on the case was commenced from the side of the police. The deceased Kiran Shah was married to Guddu Shah on May 29, 2010.

Whatever assumption is made behind the death of deceased Shah, dowry issue has

come to the light as the main cause of the death as per the investigation commenced by the police. The case has been filed and eventually the concerned party will get justice. However, dowry issue instigated the victim to opt for homicide, Nepal Government ought to implement the effective law to eradicate evil practice of dowry, according to the monitoring team which comprised of Officiating Director Buddha Narayan Sahani and HR Officer Jeevan Neupane.

As per the monitoring team, if the victim was forced to choose death because of the torture inflicted on dowry issue, it would

be tantamount to domestic violence leading to killing. Necessary legal arrangement must be made to drag the perpetrator of such incident to justice in order to minimize such untoward.

The monitoring team also urged the awareness raising programme with regard to such practices as dowry culture and child marriage. The team observed that the concerned parties ought to give ample priority towards the effective implementation of law against the child marriage and to the development of government policies and planning for compulsory child education for girl children.

Above all, it has been recommended that the members of the family must be aware and active in the first place and the programme should be launched in order to conduct community level awareness raising programme in the presence of concerned stakeholders from local level to national level.

The monitoring team has recommended the effective implementation of the Social Reform Act 2033 and also promulgate law with regard to the death caused exclusively due to the dowry issue. Similarly, the dowry culture being the existing evil practice in society, the concerned are obligated to spread the message about the Act drawn against such practice far and wide.

The team has also recommended to launch the mass awareness programme starting from community level to the national against social evil practices including discriminatory treatment between a son and a daughter, compulsory education for girl children, performance of marriage only upon attaining absolute maturity both physically and mentally.

# NHRC Recent Publications

# Stakeholder undergo Training on Forensic Investigation Procedures in Mid West



NHRC officials and the participants during the training-cum-workshop organised at Butwal in Rupandehi district



Participants during the training-cum-workshop held at Butwal in Rupandehi district

Rupandehi: In accordance with the work plan prearranged with Forensic Anthropologist Mr. Udo Krenzer, the Commission, in coordination with the Sub Regional Office Butwal conducted the two day training – cum- workshop on “Forensic Investigation Procedures” from August 1-2, 2011 at Butwal in Rupandehi district.

During the training, Anthropologist Udo Krenzer threw light on the forensic Investigation Procedures whereas Dr. Hairhar Wasti illustrated about the Ante Mortem Data Collection Procedures. Sushma Regmi elucidated the psycho-social counselling to the Victims’ family and Director Bed Prasad Bhattarai made comprehensive observation on the NHRC in Exhumations: Achievements and Challenges (From Doramba to Godar). Meanwhile, underlining the need of Draft Exhumation Guideline, HR Officer Shyambabu Kafle shed light on the rational of the draft exhumation guideline and called

on the need of its implementation as and when necessary.

The training session mainly focused on various pre and post exhumation activities to be carried out by the team involved in the exhumation mission that include scientific procedures of exhumation along with the psycho-social counselling facilitation to the victims’ families. During the training, the participants were made aware of the obstacles and challenges faced by the Commission prior to the launching of the exhumation mission. Meanwhile, the discussion was held on the draft exhumation guideline. The participants of the work groups shared the experiences of the exhumation during the training facilitation.

The participants appeared to have got thorough insight with regard to the significance of forensic investigation procedures on the incidents of

disappearance during the armed conflict and exhumation of the of the dead bodies who were said to have been killed and buried.

GIZ, an international Non-governmental organization, has been extending support in exhumation under the forensic investigation of the complaints on disappearances since 2010. Forensic anthropologist UDO Krenzer, as an expert from GIZ, is involved in the exhumation from day one. The training was conducted with the financial and technical support extended by Strengthening Capacity of National Human Rights Commission SCNHRC / UNDP.

The participant were given away the certificates at the end of the programme. Human rights officers, security personnel, doctors, district attorney, legal professional and human rights workers and media personnel from five different districts participated in the programme.

## Stakeholders in West Benefitted from Training on HRBA to Development

Kaski: A three day workshop-cum-training was organized on August 3 - 5, 2011 by NHRC Regional Office Pokhara on human rights based approach to development. The objective of the training was to avail and internalize the neo-concept of human rights based approach to development programmes together with the respect and protection of human rights for the overall development of individuals and society.

Expert Rajesh Hamal as the lead trainer, honorable justice of the Appellate Court Kishor Silwal, NHRC Regional Office Head Yagya Prasad Adhikari and Ratna Kumar

Shrestha of OHCHR-Nepal provided the taining.

Training session mainly focused on how human rights and development can be taken side by side and how it can be integrated in developmental programmes thereby slotting the methods of human rights approach to development.

Over all, the training inculcated the sense of responsibility of the representative service providers who bear the responsibility for the protection and promotion of human rights. It is hoped that integration of human rights based approach to various developmental

programmes would be phenomenal in the days ahead.

The participants urged to give continuity to the follow up programme in near future. Some of the participants came up with the view that the training of trainers would be an excellent idea to produce the in-house trainers.

25 participants comprising of the chiefs and representatives of district administration office, prisons, district development committee, metropolis office, sub-metropolis office, public health office and hospitals of various districts including Kaski, Syangjha, Tanahu, Lamjung and Gorkha districts participated in the training.

# Dialogue Held on the Alternative Report on CRC: Report ought to work as a Wake-up Call for the Govt, Chairperson

**L**alitpur: A dialogue was held at NHRC on alternative report prepared by the CRC Sub-Committee, HRTMCC, a group of different child rights NGOs on “Optional Protocol to the Sale of Children, Child Prostitution, Child Pornography” (OPSC) to be submitted to the Sub Committee of CRC in coming October session 2011. Programme was jointly organized by NHRC in collaboration with CRC Sub-Committee, HRTMCC.

HR Officer Manju Khatiwada (Focal Person of Child Rights Desk, NHRC) as the facilitator of the programme, welcomed all participants and guests.

Addressing the programme, Chairperson Justice Kedar Nath Upadhyay said, 'In order to address such a sensitive issue of rights of child, protection, prevention and prosecution mechanism must be very strong, but sadly, these remain just for the name sake. Apparently, this happens due to the deficiency in law or fragile judiciary.'

'In this regard, NHRC has recommended to the government about the cases of child rights violation and abuses at a time when NHRC had a child rights desk operating with Save the Children support and also it has been relentlessly working on the rights of child including conflict affected children. Despite this, even after the ratification of CRC for long, no effort has been made



*Hon. Chairperson looks on while expert Kapil Aryal is making presentation on the Shadow Report on CRC at a programme held at NHRC Central Office*

to formulate the child protection policies, lamented the Chairperson.

The Chairperson further added that the dialogue as such held today would not only help cumulate the feedbacks of the stakeholders on the soon-to-be submitted shadow report but also evoke the sense of responsibilities of the government mechanisms in the form of a guideline to make effort for what is needed at this juncture. NHRC is ever ready to collaborate with NGOs and at the same time hopes that the details in report ought to work as a wake-up call for the government report on CRC.

Underlining the state obligation for the respect, protection and fulfillment of the rights of child, Member Gauri Pradhan, as the programme chair, urged the government representatives to render their attention to the report prepared by the civil society.

Member Pradhan also informed that the government has developed and enacted the national minimum standard for child care centers. Similarly, child protection policies in schools have been developed and submitted to the government for enactment for implementation with immediate effect.

Presenting the paper on alternative report, expert Kapil Aryal said, 'At a time when the supreme court judgment on rights of child appear inconsistent and problematic, it has become imperative to ponder on the international laws legitimized within the framework of domestic law for the protection of child rights.'

Participants shared their views and comments during the floor discussion. They said, 'Despite the fact that individual CDOs have been delegated with 45 various responsibilities under

their chairperson ship, NGOs in districts are hardly coordinated. Government Mechanisms, on the other hand, tends to keep aloof from the issues of child rights as if it wasn't their duties.'

'Similarly, at a time when there is no victim friendly law to address to deal the OPSC, very few NGOs are aware of Optional Protocol on rights of child. Law enforcing agencies, on the other hand, are not sensitive towards victims, lamented the participants in unison.

It may be recalled that the GoN has already sent the state report on OPSC and has accomplished its preparation on OPAC. Moreover, the civil society should also prepare the shadow report on both optional protocols so as to comprise the missing aspects of the state reports. CRC Sub-Committee of Human Rights Treaty Monitoring Coordination Committee (HRTMCC) secretariat at Child Nepal (CN) has taken initiation in preparing the shadow reports and is in the phase of having consultations with children and stakeholders. Participants made their comments on the presentation to make report more wealthy and professional thereby incorporating all the missing concerns in the report.

The participants comprised of the representatives of various organizations and agencies working in the field of rights of child, legal experts and professionals, including the NHRC staff members.

## Nepal Army personnel trained on Human Rights

Kavre: Upon the request forwarded by the Nepal Army, NHRC officials participated as the resource persons in the training conducted by Nepal Army at Bhakundebsi of Kavre District. The training was provided to the officers of different ranks ranging from junior officers to high ranking officers of Nepal Army stationed at the Shree No. 26 Bahini, Bhakundebsi. 22 participants took part in the 5 day long training held from 2068/5/8 to 2068/5/13. During the training, HR

Officer Suresh Malla made his presentation on the topic entitled NHRC Scope, Achievement and Challenges as well as Fundamental Rights as Per Interim Constitution. Following the training was the interaction in which Mr. Malla clarified on the issues raised by the participants.

NHRC has been facilitating the training through the resource persons to capacitate the security personnel through human rights perspective. As a part and parcel of the mandates provisioned, NHRC has participated in different training session conducted by the security agencies viz. Nepal Army and Nepal Police for enhancing the knowledge and capacity of the officers of various ranks in the field of human rights.



*HR officer Suresh Malla facilitating the training to the Army Personnel in Kavre District*

# Independence of NHRC urged: Donor Agencies



Member Gauri Pradhan briefing about the NHRC endeavours and activities at a meeting held with the representatives of donor agencies at NHRC

**L**alitpur: NHRC held a meeting with donor representatives on August 18, 2011. Bishal Khanal, NHRC Secretary, welcomed all the donor representatives. Mr John Pace, Quality Analysis Review Advisor of the project, presented the six-month progress of SCNHRC project covering the period of Jan-June 2011.

Presenting the paper on on Strengthening the Capacity of National Human Rights Commission project (SCNHRC, John Pace, Quality Assurance and Review Adviser shared about the activities, progress, challenges including upcoming plan of the project.

Addressing the meeting, Chairperson Justice Kedar Nath Upadhyay reiterated that though the terms “autonomy” and “independence” provisioned in accordance with Human Rights Commission Act 2053 have been removed in the new NHRC bill, NHRC has not made any compromise on those terms. With regard to the staffing issue, Chairperson said NHRC is anxiously waiting for the Supreme Court’s decision to proceed with recruitment process of new staff.

Stressing on the strengthened coordination and collaboration between NHRC and OHCHR, Chairperson shared about the common strategy to execute the work related to the issues of Human Rights through joint effort. The chairperson added that, as always, support extended by the donors has been significant in NHRC endeavors.

Member Gauri Pradhan said that though NHRC has retained its “A” status, it has to surmount a number of challenges including the understaffing situation. With regard to UPR, he shared on NHRC’s role in the facilitation of UPR. He

updated on the roadmap prepared by NHRC and OHCHR for the follow up and implementation of the recommendations of UPR.

Elucidating the area of investigation and monitoring, Member Pradhan said the Commission has accomplished a great deal of achievements. He said that about 50% of the back log cases have been monitored and investigated and 500 recommendations have been made to the Government of Nepal.

He shared that the report from the Office of the Prime Minister on the status of NHRC recommendations submitted in May 2011. The report speaks off inclining progression on the implementation side of the NHRC recommendations mainly in terms of interim relief to victims. This positive response of the government has fostered optimism with regard to the implementation of NHRC recommendation to certain level. However, other side of the prospect still remains dismal as no perpetrator of HR violation has been brought to justice.

According to the report fully implemented status had gone up from 8% to 28%, partially implemented from 32% to 55% and non-implemented down from 60% to 17%. He expressed disappointment on the inaction of the government against perpetrators of human rights violations, informed Member Pradhan.

Ms Jyoti Sanghera, OHCHR-Nepal Officiating Head expressed her concern relating to the staffing issue of NHRC and assured strong and continuing support to NHRC. She lauded NHRC for retaining “A” status in its accreditation with the International Coordination Committee (ICC) of the NHRIs, Geneva.

Referring to the “A” status retained by NHRC, Mr Mukunda Kattel of Danida Hogou mentioned noteworthy cooperation between NHRC and OHCHR which was a matter of concern mainly to the donors at some point.

Mr. Pace affirmed that the performance of the project is encouraging and thus it is appropriate to give continuity to it.

Ms Lis Christensen shared her pleasure to hear about the progress of the project. As pointed out by Mr Pace, she also emphasized on extending infra structural support (such as database and IT system) to NHRC.

Mr Sharad Neopane of UNDP expressed that despite the political challenges, the progress of the project has been remarkable. He took the opportunity to thank the donors for the extension of the project.

Mr Tamata of UNDP said that empowering the regional offices, based on the federal structure of Nepal, would be crucial in such a situation. He stressed on the need to work in collaboration with national institutions such as National Women’s Commission and National Dalit Commission mainly focusing on ESC Rights.

Chairperson Justice Upadhyaya, Member/ Spokesperson Gauri Pradhan, Ms Jyoti Sanghera, Head of OHCHR – Nepal, representatives from UNDP, Embassy of Denmark, British Embassy, Danida HOGOU, NHRC Officials, Mr John Pace- Quality Analysis Review Advisor of the project including the SCNHRC staff members were present in the meeting.

# Consultative Meeting Held on Child Education: Network to go Nationwide



Participants at a programme held on Child Education at NHRC Central Office

**L**alitpur: In a feat to have nationwide outreach of the child education network, NHRC Child Rights Desk organized a consultative meeting at NHRC. The programme was chaired by the Director General of Department of Education Mahasharm Sharma. HR Officer Manju Khatiwada welcomed all participants and highlighted the rational of the consultative meeting.

Addressing the programme as the chief guest, Member Gauri Pradhan remarked that incorporation of human rights education in school level curriculum would be the first and foremost initiative that the network should

work for school activities including academics through child rights perspectives that would foster awareness among the teachers, students as well as parents concerned, envisaged Member Pradhan.

Deputy Director of the Department of Education Rajya Laxmi Nakarmi highlighted the objective and importance of the consultative meeting. Wishing best wishes for the success of the consultation meeting, Ms. Eva Ahlen, Chief of Education, UNISEF - Nepal expressed her hope to strengthen the relationship between the network members.

The draft TOR and action plan was presented at the programme upon which the discussions were held among the participants to finalize the TOR and action Plan.

Director Dilli Rimal urged the effective implementation of TOR and action plan. NHRC HR Officer Shree Ram Adhikari shared about the education project to be carried out by NHRC in future. The project has been funded by Government of Finland. He also shared about the soon-to-be launched teacher human rights manual.

Expressing vote of thanks to the NHRC and all the participating organizations, Mr. Mahashram Sharma, in his concluding remark, said that the programme was a good head start. More than 80 network members participated at programme. The programme was moderated by HR Officer Manju Khatiwada.

## Korean Delegates pay Goodwill Visit to NHRC: Rights of Migrant Workers Stressed

**L**alitpur : A seven member Delegation of Korea Democracy Foundation headed by Programme Coordinator Munjin Park called on the NHRC on August 10, 2011. A programme was held during their goodwill visit to NHRC.

The Korean team led by Park Mun Jin shared the Foundation's objectives, mandates and power. NHRC Secretary Bishal Khanal, welcoming the delegates, briefed about the NHRC mandates, functions and activities including human rights protection and promotional activities executed by the different Regional, Sub-Regional Offices of NHRC. He also shed light on the NHRC coordination with GOs, NGOs, INGOs and CSOs.

Reminding the recent MoU signed between NHRCs Korea and Nepal, HR Officer Shree Ram Adhikari shared the NHRC's international relation and engagement with UN agencies, International Coordination Committee and Asia Pacific Forum. He also posed a query if the Korean democracy Foundation can intervene

on the cases of human rights violation of migrant workers in Korea.

Hemang Sharma, the National Project Manager of Strengthening Capacity of NHRC (SCNHRC/ UNDP) briefed about the work of the project.

Both the member delegates responded to the queries raised by the NHRC officials. The delegation head said that the foundation hasn't touched upon the issue of migrant workers yet but would definitely embark upon the issue if they could do something for the issue.

The participants of the programme comprised of the member delegates for the Korean Democracy Foundation, NHRC Officials including Secretary Bishal Khanal, HR Officer Shree Ram Adhikari and NPM of SCNHRC - Hemang Sharma.



Secretary Bishal Khanal, NPM Hemang Sharma along with the Korean Delegates at the programme held during the Goodwill visit of Korean Delegates to NHRC

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