

Annual Progress Report

July 2007 - June 2008



National Human Rights Commission, Nepal
Harihar Bhawan, Pulchowk,
Lalitpur, Nepal
P. O. Box: 9182, Kathmandu, Nepal
Tel: 00977-1-5010015 Fax: 00977-1-5547973
Email: nhrc@nhrcnepal.org

www.nhrcnepal.org



**National Human Rights Commission
Nepal**



NHRC Nepal

ANNUAL PROGRESS REPORT

July 2007 – June 2008

**National Human Rights Commission
Nepal**

Copyright © : National Human Rights Commission
Harihar Bhawan, Lalitpur

P.O. Box : 9182 Kathmandu, Nepal
Phone : +977-1-5010015 Fax: +977-1-5547973
Email : nhrc@nhrcnepal.org
Website : www.nhrcnepal.org

Design

Subodh Pokharel

November, 2008

2000 copies

Publication number: 51-102-2065 (Central Office)

The Commission

Chairperson

Hon. Justice Kedar Nath Upadhyaya

Members

Hon. Justice Ram Nagina Singh

Hon. Gauri Pradhan,

Hon. Dr. Leela Pathak

Hon. Dr. K. B. Rokaya

Secretary

Bishal Khanal

Preface

This publication contains brief information that is published in the NHRC Annual Report of the year 2007/2008 which was printed in Nepali. This booklet has been published with a view to disseminate the information in order to familiarize the foreign readers on the annual activities of NHRC Nepal. It is therefore this publication would simply give an outline of major work and activities carried out by NHRC during the year.

We anticipate that this booklet would be useful to those readers who intend to have basic information on what we endeavor to do, what we achieve and what challenges we have to face during our work. We appreciate your comments and feedbacks on the publication that indeed lead us to make the booklet more informative and useful in the future.

National Human Rights Commission, Nepal

Acronym

CA	: Constituent Assembly
CAE	: Constituent Assembly Election
CPN-M	: Communist Party of Nepal (Maoist)
ESC Rights	: Economic Social and Cultural Rights
HR	: Human Rights
ICC	: International Coordination Committee
IDP	: Internally Displaced Person
ILO	: International Labour Organization
JTMM	: Janatantrik Terai Mukti Morcha
CPA	: Comprehensive Peace Agreement
NHRC	: National Human Rights Commission
NHRI	: National Human Rights Institution
TRC	: Truth and Reconciliation Commission
YCL	: Young Communist League

Annual Progress at a Glance

SN	Subjects	Numbers	Themes, etc.
1	HR Protection Related		
1.1	Complaints Received	1137	Killing, Abduction, Disappearance, Threats, Torture, Displacement, ESC Rights, Bomb blasts, Property Seizure, etc.
1.2	Decision Completed	376	Killing, Abduction, Disappearance, Threats, Torture, Displacement, ESC Rights, etc.
1.3	Decision (Complaints Cancelled)	21	Torture, Displacement, ESC Rights, etc.
1.4	Decision (Complaints Suspended)	7	Threats, ESC Rights, Torture, etc.
1.5	NHRC Recommendations	73	Killing, bomb blasts, disappearance, abduction, displacement, torture, threats, property seizure, rights of prisoners, etc.
1.6	HR situation monitoring	394 times	HR situation in general, CA election monitoring, Child rights, women rights,

			IDPs, Prisoners' rights, demonstrations and protests organized by various groups/ parties, etc.
1.7	HR Investigation on violation cases	728	Killing, bomb blasts, disappearance, abduction, displacement, torture, threats, property seizure, rights of prisoners, etc.
1.8	Other recommendations	11	HR situation in general, CA election monitoring, Child rights, women rights, IDPs, Prisoners' rights, demonstrations and protests organized by various groups/ parties, etc.
2	HR Promotion		
2.1	Interaction, Meeting, Training, etc.	101	Central level 11, regional level 16, local level 74, HR exhibition 3,
3	Publication		
3.1	Regular Publication	5	Annual Report, Child rights report, NHRC News Letter <i>Manav Adhikar Patra</i> (Monthly)
3.2	Journal	1	Sachetak (Quarterly)
3.3	Monitoring Report	4	HR Situation during CPA Period, CA Monitoring Report.

3.4	Regional Office Publication	4	Annual Report
3.5	Booklets	2	Question-Answer Collection, CPA
3.6	Other reports	9	Implementation Status of NHRC Recommendations, Human Trafficking Report
3.7	Brochure	4	Introduction to NHRC and CA Related
3.8	NHRC Calendar	1	Calendar of the year 2065
3.9	Press Release on various issues		
4	Planning and Policy Making		
4.1	Three Year Strategic Plan 2008-10	4.1	Three Year Strategic Plan 2008-10
4.2	Restructuring of NHRC	4.2	Restructuring of NHRC
5	Legal Support		
5.1	Advisory to Nepal Government	3	5.1

5.2	Law Review	9	5.2
5.3	Cases of Self defense of NHRC	5	5.3
6	Resource Center	250 books on various themes are added in the NHRC Resource Centre	
7	Human Resource		
7.1	NHRC Commissioners	5	7.1
7.2	Officers of different levels	62	7.2
7.3	Asst. Personnel	11	7.3
7.4	Office Asst. and helpers	20	7.4
7.5	Personnel working in Projects	17	7.5

Annual Activities in Brief

(July 2007 – July 2008)

Preliminaries

The National Human Rights Commission (NHRC) of Nepal was established on May 26, 2000 under National Human Rights Commission Act of 1997. The Interim Constitution

of Nepal, 2007 has elevated NHRC as a

constitutional body giving wide range power and functions relating to the promotion, protection, respect for and fulfillment of human rights. The Commission comprises with the Chairperson and four commissioners. The Chairperson and the Commissioners have been appointed for six years by the Head of the State (President) at the recommendation of the Constitutional Council. Their appointment was confirmed after the parliamentary committee hearing at the Parliament.



A team led by NHRC Chairperson briefing HR situation to President Dr. Ram Baran Yadav

The NHRC has been composed under article 131 of the Constitution.

Article 132 of the Constitution provides about the power and functions of the Commission.

Article 133 of the

Constitution, provides that NHRC has to submit its annual progress report to the President of Nepal as a part of its constitutional duty. The annual progress report covers wide range of activities carried out by NHRC and its subordinate offices across the country during the year. In addition the report contains the review of the human rights situation and challenges that NHRC experienced during the year.



NHRC Staff in a Promotional Activity

The Chairperson of NHRC Justice Kedar Nath Upadhyay recently submitted its annual report 2007/08 to the Hon President Dr. Rambaran Yadav at the President's Office at a simple ceremony attended by the commissioners and senior officers of NHRC, senior staffs of the office of the President and media persons. Speaking on the occasion, Justice Kedar Nath Upadhyay said that in terms of human rights the last year remained challenging. Unfortunately, Kapilvastu incident that had had casualties of several human lives

happened during this period. In addition many people injured in the incident followed by displacing thousands of people from home, including children, women and elderly people. The historic Constituent Assembly (CA) elections held this year despite a number of difficulties in active and free participation of general public during the election processes.

During the year NHRC carried out monitoring of human rights situation in various parts of the country mainly through its subordinate offices. Major among the monitoring activities include Kapilvastu riot and its



NHRC Staff monitoring CA Election

aftermath, exhumation at Shivapuri Jungle in the suspicion of cremated human remains of 49 people disappeared from army detention. In addition the Commission involved in the monitoring of the CA election process in different 69 (out of 75) districts in a human rights perspective and monitoring the compliance with the Comprehensive Peace Accord done between Government of Nepal and CPN (M).

HR Situation of the Year

Monitoring of the human rights situation is one of the constitutional duties of NHRC. The monitoring of the human rights situation during the year appears not satisfactory despite some remarkable achievements. During the year 216 persons lost their lives whereas 138 persons killed in the previous year. The details are given in the table below:

SN	Alleged Groups	People Killed
1	Security Force (Police)	31
2	CPN-M	6
3	JTMM (Jwala)	35
4	Akhil Terai Mukti Morcha	14
5	JTMM (Rajan)	2
6	Madhesi Mukti Tigers	6
7	Madhes Virus Killers	2
8	Madhesh Mukti Morcha	1
9	Terai Mukti Morcha	1
10	Various Bomb Blasts in different dates	27

11	Kapilvastu Riot	14
12	Unknown Groups	73
13	Other various groups	14
	Total	216

During the year, NHRC fielded 394 missions to carry out monitoring of human rights situation across the country. In addition investigations were made in 728 cases of human rights



NHRC Staff discussing with stake holders to assess HR situation

violations by the NHRC missions. Security situation of the period was remarkably miserable; the time-period was found more challenging because of recurring strikes and protests by different actors on dissimilar themes in different areas, especially in central and eastern terai and the eastern hills. Abductions, extortions, killing, blockades, cases of violence such as bomb blasts were not minimized during the year; no substantial achievement could be gained to have an edge over these activities. Security situation was somehow improved during the

CA election period; which couldn't last long after the election. Killings and the violent activities took place against the values and norms of the Human rights even during the pre-poll and polling day of the Constituent Assembly Election, in which three CA candidates of Sarlahi, Banke and Surkhet districts were killed.

Status of Complaints of the Year

During the year NHRC received total of 1137 complaints of human rights violation. This number is relatively less than that of previous year. The number of complains on the violation of rights of women, more specifically related to domestic violence were significantly increased. Issue based classification of complaints is given in the table below.

SN	Theme of Complaint	2007 Jul-Aug (Shraavan)	Aug-Sept (Bhadra)	Sept-Oct (Ashwin)	Oct-Nov (Kartik)	Nov-Dec (Mansir)	Dec- 2008 Jan (Push)	Jan- Feb (Magh)	Feb-Mar (Falgun)	Mar- Apr (Chait)	Apr-May (Batsakh)	May- Jun (Jeshb)	Jun- Jul (Asar)	Total
1	Abduction (CPN-M)	3	4	9	2	4	4	3	4	1	2	3	2	41
2	Disappearance (State)	9	12	4	75	2	3	7	1	0	0	10	4	127
3	Abduction (unidentified groups or other groups)	17	7	5	5	10	4	2	10	7	11	4	4	86
4	Killing (Security Force)	46	5	70	3	2	2	4	10	12	6	15	6	181
5	Killing (CPN-M)	12	4	1	2	0	6	5	4	1	4	7	7	53
6	Killing (others)	1	1	1	0	1	0	1	3	1	3	2	1	15
7	Torture (Security Force)	19	23	11	7	3	4	4	4	5	8	10	6	104
8	Torture (CPN-M)	7	5	4	0	1	6	1	1	0	8	6	7	46
9	Torture / Misbehavior (Others)	4	4	0	1	0	0	2	0	0	1	0	1	13
10	Prison Relation.	1	1	0	2	0	2	0	0	0	1	0	0	7
11	IDPs (CPN-M)	6	3	4	1	14	5	9	3	0	0	2	6	53
12	Property Seizure (CPN-M)	5	4	2	1	1	8	5	0	2	1	5	2	36

13	Property Seizure (Security Force)	1	0	0	1	0	4	0	0	0	0	0	0	6
14	Property Seizure (Others)	1	1	1	0	1	0	1	3	2	0	0	0	10
15	Compensations	4	2	2	0	3	2	0	1	0	0	2	3	19
16	Threats (CPN-M/ YCL)	3	0	12	2	2	4	3	4	1	2	1	2	36
17	Threats (Security Force)	1	0	0	0	0	1	0	0	0	0	0	1	3
18	Threats (Unidentified Groups)	2	4	6	3	7	5	2	2	1	2	2	0	36
19	Illegal Detention	2	2	3	0	0	0	5	0	0	1	2	2	17
20	Civil Rights	1	1	1	1	1	0	0	0	0	0	2	1	8
21	Economic, Social and Cultural Rights	6	3	2	3	2	3	0	4	5	2	3	3	36
22	Casualties in Bomb-blasts	1	3	0	0	1	1	0	0	0	0	0	1	7
23	Child Rights	0	0	6	0	7	3	1	0	1	59	0	2	79
24	Women Rights	2	5	1	4	0	2	4	2	3	1	4	19	47
25	Judicial Administration	1	2	5	2	6	4	4	3	0	1	7	7	42
26	Others	7	8	2	3	4	6	6	8	2	8	9	2	65
	TOTAL	162	104	152	118	72	79	69	67	44	121	96	89	1173

Implementation Status of the CPA in the Year

The NHRC record reveals that total of 970 persons is found missing; out of them 671 from the part of the state and 299 from the part of CPN-M.

The commitments of the Government of Nepal and CPN-M for the implementation of the CPA deemed less satisfactory. Clause 5.2.3 of CPA provides that both the parties would “*prepare the details of the disappeared persons or those killed in the conflict with their name, surname and residential address and publicize it within 60 days from the day of signing this agreement and inform the family members of concerned persons*”. However both the parties did not disclose the whereabouts of the disappeared and abducted persons in the specified period of 60 days of signing the accord. Likewise the decision of the Supreme Court for the establishment of the Disappearance Commission and providing interim relief to the family of the disappeared people has not been implemented by the Government.

In addition clause 5.1.4 of the accord provides that “*both parties shall inform each other about the demarcation and storage of ambush or mines planted during the war period within 30 days and help each other to diffuse or dispose them off within 60 days*”. Both the parties seemed to be not prepared for the implementation of this clause as well. The NHRC has documented incidents of 27 persons’ death and

many other injured by land mines explosion after the signing of accord.

Despite commitments expressed through the CPA, no serious efforts are made toward the return of thousands of IDPs back home. Private and public properties seized during the conflicts by the CPN-Maoist and its sister organizations have hardly been returned to the owners. The National Peace and Rehabilitation Commission has not been formed yet. Hence the commitment toward providing relief and manage the rehabilitation process of the IDPs could not happen mainly due to lack of political consensus.

The formation of Truth and Reconciliation Commission (TRC) has also been long awaited. As agreed through the accord the idea of Commission was put forward in order to address the issues relating to the violation of Human Rights and Humanitarian Laws during the conflicts.

Major Efforts of the Year

Based on the annual work plan and the strategic planning document of the Commission the NHRC performed various works during the year. Major work toward promotion and protection of human rights by the Commission are enlisted below.

- Monitored 394 incidents of suspected human rights violation across the country
- Carried out investigation related activities of 728 incidents of violation of human rights.
- Conducted investigation of the suspected site of cremation of those disappeared persons at Shivapuri national park, who were in the army detention in the conflicts. This work was carried with the help of Nepal Police, and Nepalese and Finland' forensic experts.
- Settled 73 complaints on behalf 110 victims and recommended to the Government to provide compensation to the victims, and other appropriate actions such as disciplinary actions
- Settled 379 complaints of which 21 were dismissed and 7 pending.
- Hold over a dozen of dialogues with the senior officials of government of Nepal including ministers, secretaries of various ministries, heads of Nepal police forces, heads of some corporations, among others on the issues of various rights such as right to life, right to movement, economic and social rights, rights of prisoners.
- Prepared, published and disseminated 14 reports on various themes, 11 IEC related and promotional documents, 8 issues of monthly Human Rights Post, and the NHRC Annual Report

- Prepared Strategic Planning document for the year 2008-10
- Carried out restructuring of NHRC aiming to extend its outreach programs across the country
- Approximately 2 million US \$ spent during the year for the program related activities and pay roll as well.

Major Achievements of the Year

The long-awaited historic Constituent Assembly elections held in April 2008. CA process has been acclaimed as a step towards making a human rights friendly constitution in the country. The promulgation of the



NHRC Staff monitoring CA Election polling center

Right to Information Act, 2007, the Human Trafficking and Migration (Control) Act, 2007 and Foreign Employment Act, 2007 were considered significant in terms of strengthening of human rights in the country. Likewise the amendments on the Civil Code (*Muluki Ain*) against abduction and taking hostage in persons, and ratification of ILO Convention-169 towards promotion and protection of indigenous peoples' rights are equally important. In addition Supreme Court

decision in favor of the rights of transsexual minorities, search for peaceful solutions and political settlements initiated by different political parties are some of the achievements of the year to mention.

Major Challenges

- Non-implementation of NHRC Recommendations in full-fledge;
- Prevailing culture of impunity;
- Failure to declare the status of disappeared and abducted persons during the conflicts;
- Slow progress on the return of public and private properties seized by the CPN-Maoist;
- Lack of conducive atmosphere to return the IDPs back home;
- Delay in the formation of TRC and Peace and Rehabilitation Commissions.

- The End -