

Views of Institutions on Human Rights Situation in 2018

National Human Rights Commission

Informal Sector Service Center (INSEC) is continuously active in Human Rights sector and publishing “Human Rights Year Book” every year. It is praiseworthy to include incidents human rights violation and publishing it. I would like to wish success for the publication of this book.

The development of a person or a community is only possible with the respect of Human Rights. It is the subject of concern to everyone as this is enforced to everyone without any boundary. The situation of anarchism rises when state fails to respect human rights. A disciplined society cannot be imagined without the development of human rights culture. National Human Rights Commission (NHRC) holding a national level status is always active on respect, protection, promotion and developing the culture of human rights. The Article 249 (1) (2) (3) and NHRC Act 2068 has provisioned the responsibility and rights of the commission.

Nepal is a state-party of various international covenant. The constitution of Nepal has given especial place to the Human Rights issue addressing the international covenant. Various mechanisms are operating for its implementation. By the exuberant participation from all political parties, all three levels of election are conducted and government is formed. The

implementation of constitution is on right track by holding the presidential, HoR and National Assembly election. Formulation of necessary Acts and amendments are continuing. These are the positive signs in human rights perspective.

Apart from this, the overall human rights situation of the country is not satisfactory. It is already 10 years of signing of Comprehensive Peace Accord (CPA) however, the sad part is that conflict victims are still waiting for justice. There is an equal challenge on implementing the fundamental rights provisioned by the constitution. Issues on jurisdiction between the various commissions and NHRC is being raised as per the constitution. There is a lack of clarity on their rights in all three levels.

Similarly, there are equal hurdles on implementing economic, social and cultural rights of the citizen. The caste-based-discrimination is still prevalent in the society and there is a lack of equal access of citizens to health services. The immigrant's rights in foreign employment is still not secured and labor exploitation, domestic violence is prevalent in foreign employment. The situation of flood and earthquake victims remains still the same. State has failed to address the issues of marginalized community, person with disability, Dalit, women and senior citizens. As a result, the rights of these people is not secured.

In this fiscal year, the commission is engaged on receiving complaints of human rights violation along with the monitoring and investigation of the incidents on human rights abuses. The commission is equally engaged in trainings, meetings, interactions and discussions program for the protection and promotion of human rights. Laws contradictory to the human rights are under review. Subjective report, books and journal, press note and press statements were published.

The commission is engaged with stakeholders such as office of the president, Nepal government, civil society, national and international NGOs and human rights related national and international donors as per necessity and relevancy.

In this fiscal year, the commission has gained various achievement in human rights promotion and protection. During the period, commission registered 152 complaints and investigated 350 new and old complaints. It has conducted monitoring for 463 times.

Similarly, it participated as a resource person, expertise, chief guest/guest in 269 programs organized by human rights affiliated organizations. It participated in three days discussion program on the “situation of human rights and challenges of impunity in south Asia”. Similarly, the commission continued to disseminate human rights related materials, features and publications. The commission conducted 59 programs such as internal training, meetings and interaction throughout the year.

During this period, 14 publications, 50 press releases and 16 press notes were issued by the commission including three press meet. Meanwhile, to assist government and stakeholders to formulate new law in human rights perspective, laws were reviewed and sent to the concerned body for its implementation. The

management of staffs in the commission has expedited and which can be taken as one of the major achievement during this period.

Apart from these achievements, commission is not away from its challenges. The situation of impunity is prevalence and commission’s recommendations to the government are not being implemented. The commission I not getting support from the government as it was expected, however, it is still working for the protection and promotion of human rights in the country. The commission is continuing to operate its activities despite of having adequate laws and delay in reconstruction of NHRC building that was damaged by the earthquake. In order to address these challenges, the commission is still seeking assistance from the stakeholders and focused on Act and strategic planning by gaining the experiences from the past.

The country has entered into federalism and it is very important that laws and policies formulated by the provincial government is human rights friendly. The formulation of mechanism for the implementation of law is also important and for this, the commission, as a national institution, and INSEC as NGO can be its allies. As a result: this coordination and cooperation can be a mile stone for addressing human rights issues. The commission is always committed and ready for cooperation and coordination with all stakeholders for the human rights respect, protection and development of human rights culture. Lastly, I would like to express my greetings and thankfulness to INSEC for its praiseworthy effort in human rights and social justice.

Thank you !

Bed Prasad Bhattra
Secretary/spokesperson
Human Rights Commission

National Women Commission

National Human Rights Commission and other organizations working with a similar interest are engaged in protection and promotion of human rights by adopting the universal norms of Human Rights and on this, the role played by Informal Sector Service Center (INSEC) is important and praiseworthy. The organization has contributed on raising awareness in the sector where government has lacked its attention. INSEC is playing active and important role by highlighting the weaknesses regarding the human rights issue from the government sector. All three levels of elections were held and government is formed as per the constitution. Similarly, necessary laws are being formulated for the operation of government. The government has allocated budget in all three levels however, the operational implementation is left. Issues such as management and mobilization of manpower, skill development and service condition will be managed as per adjustment Act. The government announced to address the valid demand made by employees. The management of transitional administration is a huge challenge along with guaranteeing the services and assistance entitled to the public.

In 2018, the incidents of women and child rights violation has increased and if it is not controlled on time, for sure, it will create a horrible situation. So, it is important for all stakeholders to draw their attention on time.

Security body plays a vital role to control the incidents on the spot however, they have failed to perform this responsibility which has raised the question on their capacity and credibility. The incident of Nirmala Panta of Kanchanpur has highlighted violence under the cover of disciplined society. It shows how real picture of crime network in the society.

The serious violation of human rights is rampant, and in this situation, it is important to identify the root cause of the problem and eradicating it rather than alleging each other.

Especially, in youth, the increasing trend of using contrabanded drugs and alcohol, have expanded from southern bordering district to various parts of the country. Due to the lack of solid planning and action on controlling the crime, domestic and women violence is becoming a serious matter of concern.

In order to control all forms of violence, the National Women Commission has following roles as per the constitution.

1. Policy recommendation
2. Legal changes and necessity amendment
3. Following international treaties
4. Training and empowerment on gender development.

The Article 253 of the constitution has described following responsibilities and rights:

1. Allocating program and policies related to the women rights and recommending the government for its implementation.
2. Monitoring whether there is an effective implementation of women rights related laws as per the international treaties and agreement or not and recommending government with remedies.
3. Bringing women into the main stream of development and guaranteeing their proportionate participation and recommending government for its effective implementation.
4. Monitoring and recommending concerned bodies regarding the improvement of laws related to gender equality, women empowerment and women related laws along with the study and investigation.

5. Providing recommendation to the government on preparing report related to women rights entitled by Nepal, being state-party, as per the international treaties and agreement.
6. The constitution has ensured the provision to establish offices in all seven provinces especially after the country headed towards the democratic federal state. Now, the responsibility and working area of the commission is becoming comprehensive and it has become a symbol of faith to ensure gender justice and women rights.

Anil Kumar Thakur
Secretary

National Dalit Commission

We are happy to know that INSEC is publicizing the Human Rights Year Book-2019 this year, same as in previous year by collecting and documenting the incidents of Human Rights violation throughout the country in a year. We would like to congratulate and wish INSEC on behalf of National Dalit Commission for the successful publication of this book.

Dalit Community is going through social, education, cultural and economic exploitation and are being the victim of discrimination and violence. The commission hopes and believes that the human rights year book-2019 will include all the incidents related to Dalit discrimination and violence. At the end, I would like to thank all contributors involved in a preparation of Nepal Human Rights Year Book-2019.

Purushottam Nepal, Secretary
National Dalit Commission

Ministry of Foreign Affairs

The Ministry of Foreign Affairs is pleased to learn that Informal Sector Service Centre (INSEC) is giving continuity to its annual publication of “Nepal Human Rights Year Book” for the year 2019 as well. While wishing success of this endeavor, the Ministry commends INSEC for its efforts to the documentation and publication of the human rights situation in the country.

Nepal has adopted wide range of policies, enacted laws, and built institutions for the promotion and protection of human rights. The Constitution of Nepal (2015) has guaranteed a comprehensive set of human rights as fundamental rights which provide a solid constitutional foundation to the protection of human rights in Nepal. This includes both civil, political as well as economic, social and cultural rights and remains consistent with our commitment to the provisions of international human rights instruments to which Nepal is a state party.

The year 2018 essentially remained a year of human rights law making. The Federal Parliament accomplished the task of enacting implementing legislations for all human rights enshrined in the Constitution within the mandated timeframe. These enabling laws are regarded as significant for the enjoyment of fundamental rights provided by the Constitution.

The normative framework of human rights has been given substance by the institutional arrangements made for the promotion and protection of those rights. The National Human Rights Commission of Nepal enjoys independent status guaranteed by the Constitution itself and stands accredited ‘A’ category national human rights institution for years. National Women Commission, National Dalit Commission, and National Inclusion Commission have been established

to work for the promotion of rights and interests of the people covered by their respective mandates. In addition, the Indigenous Nationalities Commission, *Madhesi* Commission, *Tharu* Commission, and Muslim Commission have been established by the Constitution. Two independent Commissions are engaged to address the matters related to transitional justice process.

Nepal is a state party to twenty-four international human rights-related instruments, including seven out of nine core Conventions. Nepal's adherence to human rights norms has been reflected in the international communities' recognition by electing Nepal to the United Nations Human Rights Council (HRC) for the term 2018-2020. Membership of the HRC has provided Nepal with an opportunity to contribute for the promotion and promotion of human rights worldwide, share Nepal's own experience in the field, and contribute in the human rights norms setting internationally. To give a further impetus to those efforts, Nepal has presented candidature for the re-election in HRC for the consecutive second term of 2021-2023.

As an active member of the United Nations and currently a member of HRC, Nepal's commitment to human rights and fundamental freedom is total and unequivocal. Nepal considers all human rights, including the right to development, as universal, indivisible, interrelated, interdependent and mutually reinforcing and they should be free from politicization, selectivity and double standards.

This spirit was amply reflected in the address to the 73rd Session of the United Nations General Assembly by Prime Minister, Rt. Hon. K P Sharma Oli, in September 2018. While reiterating Nepal's commitment to the promotion and protection of human rights, the Prime Minister had said, "[W]e hold the view that development, democracy and respect

for human rights are interdependent and mutually reinforcing. As a member of the Human Rights Council, we will continue to play our constructive role to deliver on Council's mandates." Earlier in March 2018, Foreign Secretary, Mr. Shanker Das Bairagi, reiterated Nepal's outlook on human rights in his address to the High-level Segment of the 37th Session of the UN Human Rights Council.

Nepal's participation in the UN peacekeeping aimed at protecting civilians also represents a major contribution for the protection and promotion of human rights in conflict situation. Nepal has been contributing in the work of the CEDAW Committee through a Nepali national currently serving as its Member for the term (2017-2020).

Since a significant number of Nepali nationals are working abroad, the Government of Nepal attaches high priority to the human rights and wellbeing of migrant workers. Nepal participated in High Level Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration (GCM) in December 2018. With the election to the Governing Board of the International Labour Organization (ILO) and assumption of the Chair of the Colombo Process, Nepal pursues the rights of migrant workers with added priority. Nepali Diplomatic and Consular Missions abroad are providing consular and legal services to the migrant workers and facilitate the safe repatriation of trafficked and stranded Nepali citizens.

Nepal remained constructively engaged with the UN human rights mechanisms. Two UN mandate holders visited Nepal in 2018. At the invitation of the Government of Nepal, Special Rapporteur on Rights of Migrants, Mr. Philip Gonzalez, visited Nepal from 29 January to 05 February 2018. Similarly, Nepal invited Special Rapporteur on Violence against Women, its Causes and Consequences,

Ms. Dubravka Simonovich for country visit from 18 to 29 November 2018. Both the mandate holders have successfully completed their missions. The Government of Nepal extended all necessary cooperation to facilitate their visits.

National implementation of human rights norms and fulfilling our reporting obligations has always received high priority. In 2018 alone, three periodic reports submitted by Nepal under various international human rights instruments to which Nepal is State party were considered by the respective treaty bodies. Nepal's initial report to the Committee on the Rights of Persons with Disabilities was considered by the CRPD Committee on 20 and 21 February 2018. Similarly, Nepal's combined 17th to 23rd periodic reports under the Convention on Elimination of Racial Discrimination was considered by the CERD Committee on 30 April and 01 May 2018. Nepal's 6th periodic report under the Convention on the Elimination of All forms of Discrimination against Women was considered by the CEDAW Committee on 23 October 2018.

Nepal has been implementing Human Rights National Action Plan (HRNAP) since fiscal year 2004/2005. Currently the Fourth HRNAP (2014-19) is under implementation. The Fifth HRNAP is in the making.

In sum, the year 2018 remained significant in the promotion and protection of human rights in Nepal and also in terms of Nepal's showcasing of human rights implementation to the appropriate UN human rights mechanisms.

Rajeshor Bhatarai
Brigadier General
Director

Nepal Army

1. Nepal army is always committed on protecting the basic human rights accepted globally by realizing the issue of practical guarantee of sovereignty rested within the Nepali people.
2. Nepal army personnel are being trained on International Human Rights and Humanitarian Law in guided by the Military Act, 2063, Article 20, and the objective of developing Nepal Army into professional army through professional training and education.
3. In command and guidance from Commander-In-Chief, in every unit, a class related to International Human Rights Law and Human Rights are being operated once in every three months to the staffs of Nepal army. Similarly, an advanced level training on Law of Armed Conflict (LOAC) was operated in November in cooperation from Nepal Army ICRC.
4. The Human Rights related subject is compulsorily included in each training syllabus so that all staffs are trained on human rights and International Humanitarian Law.
5. Lastly, Nepal Army would like to expresses its good wishes to INSEC for the publication of "Human Rights Year Book-2019".

Rajeshwor Bhattarai
Brigadier General
Director

Nepal Police

We are delighted to know that Informal Sector Service Center (INSEC) is giving continuity on publication of "Human Rights Year Book" this year too. The human rights situation of any nation is determined by how much the citizen are aware. The enforcement of law is possible



only when citizens are capable and ready to respect the law and state is successful on protecting, promoting citizen's rights. The police administration is adopting both pro-active and reactive approach for the protection and promotion of human rights and we are hopeful that this message will reach to the citizen through this book.

This year, the situation of peace and security were well managed during the BIMSTEC and Asia Pacific conference held in Kathmandu. Police was successful on managing the peace and security during this big event without any incident.

Towards Human Rights Protection

1. Nepal police is working on focusing both proactive and reactive approach. The capable human resource is the first condition on delivering good governance along with the protection and promotion of human rights. Taking this into consideration, Nepal police is providing training to its staff by identifying the vulnerability of human rights violation while delivering services and implementing law.
2. It has provided training and orientation to more than 8,000 staffs on "principle of using force and use of weapons", mob control and management, custody management and citizen friendly service with the objectives of minimizing excessive use of force.
3. Human Rights violation monitoring unit under Police Headquarter has provided three days human rights training in three phases and organized meeting on Human Rights protection and promotion in presence Home Minister as a chief guest.

The training provided by Nepal Police from 2017 to 2018:

Nepal Police has operated 427 trainings from 2017 to 2018 of which 2926 were women and 25361 men.

Specific Unit (Mechanism)

Monitoring

1. Nepal Police has established Human Rights Cell as a specified Unit in the police headquarter from 2003. This unit is established as a human rights violation monitoring unit and have branch offices in all provincial offices.
2. It is mandatory to put the name and contact number of office chief in visible area.

Investigation and action

1. Nepal police is continuing to take action against the staffs found guilty on human rights violation after investigation. The investigation committee is normally formed as per the nature and sensitivity of the incident.
2. Apart from this, public have access to meet senior police officer and put their issues and lodged complaint against guilt.
3. A mechanism is formed so that complaint can be lodged at complaint investigation branch under DIG and Human Rights Violation monitoring unit in center.
4. From 2017 to 2018, a departmental action was taken against 67 police staffs charge for human rights violation and until now 717 have been charged on such violation.

In Police Headquarter Human Rights Branch, 31 complaints from Home Ministry were received from 2017 to 2018 of which 15 cases were investigated and 16 cases are under investigation. Similarly, 71 complaints were received from National Human Rights Commission and of which 40 incidents were investigated and remaining 31 are under investigation.

Based on information published in newspapers, 16 complaints were received of which 12 cases were investigated and four of them are under investigation. On two complaints received via e-mail and application are under the investigation.

In Human Rights Promotion

Coordination and cooperation: Nepal Police are continuously and jointly working with various organizations in order to stop possible human rights violation by its staff. Especially, organizing interaction programs with various organizations and implementing constructive recommendations, providing training to staffs in coordination with various organizations etc.

1. Nepal Police is actively engaged in promotion of human rights in coordination with more than 753 committees across the nation through “Community Police Partnership Program”.
2. It is implementing creative recommendations received after the interaction with various organizations.
3. It has highlighted the view points of the organization by participating in meetings of various organizations.
4. Implementing the directions received from National Human Rights Commission.
5. Staffs were provided human rights training in various issues in coordination with NHRC, International bodies and Kathmandu School of Law.
6. Participated in a program organized by NHRC in Dailekh and Achham on Chaupadi practices.

Fulfillment of Human Rights

Use of scientific Resources

1. The office of Nepal police is citizens-friendly.
2. CCTV Camera is installed in a custody room.
3. Rooms with modern equipment for interview.
4. Construction of separate room and building with trained female police for the investigation on violence and crime against women and children.
5. Guilt is brought under the legal boundary with the use of AFIS, Polygraph and Forensic Mobile.

Effectiveness on crime investigation

1. Effectiveness in crime investigation: At present, 3 years Crime Action Plan (CPA) is in operation to prepare capable manpower by making investigating system in full implementation. This has improved the investigation part of police and has protected rights of victim.
2. Similarly, significant number of absconding convicts were arrested.
3. It was also successful on arresting gold, drug dealers and smugglers, women traffickers, along with controlling contraband trafficking of animals.

Prevention of Crime

1. Nepal police has operated “Community Police Partnership” program in coordination with local level with the objective of controlling crime.
2. Nepal Police is equally operating awareness raising program to mass citizens by launching “Service with a smile” and “police my friend” programs.

In overall, Nepal Police is active on protection and promotion of human rights by delivering justice to the victims through investigation, training, awareness and various activities and it will continue this.

Nepal Police appreciates the cooperation and continuous efforts undertaken by INSEC to protect and promote human rights even during very challenging and critical situation. It expects continuous cooperation and feedbacks from every individual and agency to make Nepal Police more effective and efficient. Nepal Police is committed to protect human rights and would like to send best wishes to INSEC for the successful publication of its “Nepal Human Rights Year book-2019”.

Uttam Raj Subedi

Police Senior Sub-Inspector



Armed Police Force

Armed Police Force (APF) has adopted the principle of zero tolerance in the issue of Human Rights violation with the objective of protecting and promoting Human Rights. The APF is very sensitive on human rights issues and equally involved in taking departmental action the staff found guilty on human rights violation. Similarly, officers deployed in command responsibility are briefed about the human rights and international humanitarian law. They are directed to be aware on a sensitive issue of human rights. At the same time, a departmental action is taken against the one found guilty on Human Rights violation. The Human rights protection is not a new issue or context however, it is the main objective of the organization since it was established. Armed Police Force has a sensitive and important responsibility to implement the law and order in society showing its professional expertism by protecting the fundamental rights and providing service to the people at the same time. The police force is operating micro watch in order to prevent grave human rights violation such as Human Trafficking, especially, around the bordering area. It is equally performing its duty in an event of natural disaster being aware of human rights protection at the same time. From its establishment till now, it is continuously performing its activity effectively with the commitment of protecting and promoting of human rights.

APF is effectively implementing the fourth “Five Year National Human Rights Action Plan”. Trainings related to human rights is provided to the employees of lower ranks. Similarly, workshops for government, civil societies and representatives of political parties from grass-roots level were provided highlighting the roles of APF’s in the protection and

promotion of Human Rights. APF’s staffs have participated in advanced training related to human rights and humanitarian laws. Similarly, training manuals and curriculum are revised as per the need of time. The organization has trained its staffs to gain knowledge on gender-based discrimination. At the same time trainers are produced from its own manpower.

At the end, we would like to wish success to INSEC for the publication of human rights year book-2019 and believe that INSEC will be successful on protecting and promoting human rights of people in coming days.

Suraj Kumar Shrestha

Deputy Inspector General of Armed Police
Human Resource Department, Legal Branch
Huma Rights Cell, Armed Police Force

FNJ

Federation of Nepali Journalist (FNJ) is equally active organization working for press freedom , right to speech and Human Rights . In this context, the federation also respects the initiation of other organizations working for protection and advocacy of Human Rights. We would like to wish INSEC for the successful publication of Human Rights year Book-2019 and for its continuous contribution in human rights and social justice.

In this context, FNJ is also closely studying the human rights situation of Nepal. The federation has established monitoring desk and regularly monitoring the incidents of abduction, threat and attack on media personnel.

According to the data of the federation, the year 2018 became the year with full of challenges. This year 58 incidents of press freedom violations were reported of which six journalists were arrested of which three of them were arrested and charged under the Cybercrime Act, 2063 just because of writing news.

The press council holds the right to

review the complaint and take action, but police are charging journalist and lodging case against them which clearly shows the vulnerable situation of press freedom in Nepal.

In this period, 15 journalists were attacked and 13 of them received threatening. According to the federation's documentation, majority of threatening and attack on journalists were from police, political parties and local representatives which are linked with the news publication. During this period, 12 journalists were mistreated in course of collecting

news. Similarly, six journalists were obstructed and were deprived of collecting news and in four incidents newspapers were captured.

These majority of incidents highlights the overall human rights situation of the country. It is very unfortunate to see the involvement of responsible body of the state, political leaders and cadres in human rights violation.

Govinda Acharya

Chairperson

Nepal Journalist Federation

