

Annual Report (Synopsis)

F.Y. (2017-2018)



National Human Rights Commission

Hariharbhawan, Lalitpur, Nepal



Annual Report (Synopsis)

(2017/18)



National Human Rights Commission, Nepal
(NHRCN)

Harihar Bhawan, Lalitpur, Nepal

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Foreword

As a national institution of human rights, it is well known that National Human Rights Commission, Nepal (NHRCN) is active for the protection, promotion and respect of human rights and promotion of human rights culture since its establishment. Within the mandate provided by the Constitution, Act, and its strategic planning, NHRCN has been carrying out its works. As a constitutional body, provisions related to NHRCN have been made in Article 249 (1), (2) (3) and NHRC Act 2012.

It is rightly said that state is a guardian. So, the primary responsibility to respect, protect and fulfill human rights lies within the state. The responsibility lays on the NHRCN to make state accountable by monitoring whether the state has fulfilled these obligations or not and make it accountable if it failed to do so. These responsibilities are being fulfilled through various methods including monitoring of human rights situation, promotion of human rights education, advocacy and review of various laws. Based on the findings made through these tasks, the NHRC has been making necessary recommendations to the state, government and other stakeholders for their implementation.

Article 294 (1) of the Constitution of Nepal has made provisions about constitutional bodies to submit annual report of their works to the president. This report mainly mentions about complaints received, investigation made into the complaints, investigation details and recommendations made to the government. In addition to them, this also provides details of the reform that needs to be introduced in future for the promotion and protection of human rights.

As in the past, this year too, the NHRCN has carried out various works such as receiving complaints and conducting monitoring and investigation to promote and protect human rights. Besides these activities, there have been various promotional programs such as trainings, seminars, interactions and discussions. Other works such as making review of human rights related laws, publishing various thematic reports, booklets and journal and issuing press notes and press releases are also being carried out. Messages of public concerns related to human rights are also being published and broadcast through mass media.

NHRCN has been working in partnership and collaboration with

other stakeholders both at national and international level based on needs and proper justification to promote the culture of human rights. In particular, cooperation with Office of the President, Government of Nepal, various Constitutional bodies, political parties, civil society, national and international non-government organizations and human rights-related national institutions and donor agencies has been given continuity.

Nepal is a party to the various international human rights conventions and instruments. Human rights has been given due priority in the formulation of constitution and other laws. A National Action Plan of Human Rights has been formulated and its implementation is currently underway. Works related to the formulation of various mechanisms are also being carried out to take various provisions related to human rights into implementation level. They should be taken as positive interventions made by the government and legislature. Elections to the local bodies, provincial assembly, and House of Representatives (HoR) have been held in an encouraging manner with participation of all the political parties. All three-tier of governments have already started their works. Elections to President, Vice President, Speaker, Deputy Speakers, Chairperson and Vice Chairperson of National Assembly have also been already concluded. We can feel that these all works have initiated implementation of the new Constitution. Necessary laws interrelated to fundamental rights and Acts related to the formation of human rights related Commissions have also been already formulated.

Despite all these positive initiatives, challenges still abound in the protection of human rights. Overall situation of human rights is not satisfactory even today. Questions have been raised over the jurisdiction of NHRCN and constitutionally-formed other Commissions. It is sad that victims of the Maoist conflict have not been able to get justice even as a decade has already passed since the starting of the peace process. It seems that the implementation of fundamental rights will be more difficult as compared to the formulation of their laws. It seems there is no clarity on the concurrent powers enshrined in the Constitution among three tiers of the governments.

Similarly, there has not been desired progress yet in the implementation of various human rights including civil and political rights, economic, social and cultural rights. The use of children in election campaign, prevalence of caste-based discrimination, and lack of access to health facility make us feel that desired environment is yet to be achieved to ensure constitutionally guaranteed rights. Life of ordinary people is still in difficult situation due to various reasons including labor exploitation of those going abroad for labor and

growing instances of domestic violence. It seems necessary on the part of the state to give special consideration to ensure rights of marginalized community, indigenous nationalities, and persons with physical disability, Dalits, women, senior citizens and migrant workers. This has not happened so far. As a result, the rights of these groups and community have not been safeguarded yet as it had to be. Situation of those affected by floods and earthquake has also not changed much.

NHRCN has made various achievements through different interventions including those related to protection and promotion of human rights during this fiscal year. Altogether 152 complaints were filed at NHRCN during this fiscal year. Investigation of over 350 complaints including those from previous fiscal years has been completed, while NHRCN conducted monitoring for 463 times during this fiscal year. In order to materialize its slogan "*Human Rights in Every Household for All: Basis for Peace and Development*" altogether 324 promotional activities were carried out, giving special priority to the promotion of human rights. The number of such works carried out in partnership and coordination with others stood at 37. Similarly, NHRCN has made participation in various capacities including as resource person/subject expert, chief guest/guest and participants in programs organized by different human rights related organizations. A three-day discussion program aimed at making review of human rights situation and challenges of impunity in South Asia and shaping future strategy was also held. Similarly, publications of various human rights related materials, production of documentaries and other publications are given continuity. The NHRCN also conducted a total 59 trainings, seminars and interactions internally.

During this period, NHRCN published 14 new publications, issued 50 press release and 16 press notes and organized three press conferences. In addition to this, Commission has written to concerned government bodies for the implementation after making review of various laws from human rights perspective. The management of staffs within the NHRCN has also gained momentum. These are some of the major achievements made by the Commission during this fiscal year.

Despite all these achievement, NHRCN is not free from challenges. The state of impunity continues to exist. NHRCN is forced to carry out its works amid failure of the government bodies to implement its recommendations. Failure to receive cooperation as anticipated from the government, inadequate legal provisions and delay in repairing its office building damaged by the earthquake are other major challenges. NHRCN has been repeatedly urging concerned

government bodies to address these challenges. Amid these achievements and challenges, the NHRCN is committed to take forward its works in line with the changed context and time, while focusing on constitution, Act and its Strategic Plan and its own learning from past experiences.

Finally, I thank Office of the President, the parliament, the government, the political parties, civil society, human rights community, media society, professionals, and businesspersons for their support and goodwill to the NHRCN. I also take this opportunity to thank various international organizations, diplomatic community and donor agencies. I am grateful to all my fellow Honorable Members, Secretary and all other staffs working at the NHRCN. I would also like to extend special thanks to Human Rights Officer Kailash Kumar Siwakoti for his painstaking efforts made by coordination to bring out this annual progress report in this form. Director, Nava Raj Sapkota and Security Officer Babu Kaji KC also deserve my sincere thanks for their support in the course of preparing this progress report. I conclude my statement with a sincere hope and confidence that NHRCN would receive continued support from all sectors even in the days to come.

Thank you!
February, 2019

Anup Raj Sharma
Chairperson

Acronym

CIEDP	Commission of Investigation of Enforced Disappeared Persons
CSOs	Civil Society Organizations
ECN	Election Commission of Nepal
HoR	House of Representatives
ICCPR	International Covenant on Civil and Political Rights
MoFA	Ministry of Foreign Affairs
NHRCN	National Human Rights Commission, Nepal
NGOs	Non-governmental organizations
OAG	Office of Attorney General
OPMCPM	Office of the Prime Minister and the Council of Ministers
TRC	Truth and Reconciliation Commission
PSC	Public Service Commission
SC	Supreme Court
UNDP	United Nations Development Program
UNHCR	United Nations High Commissioner for Refugees

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Annual Work Details of the NHRCN: A Snapshot

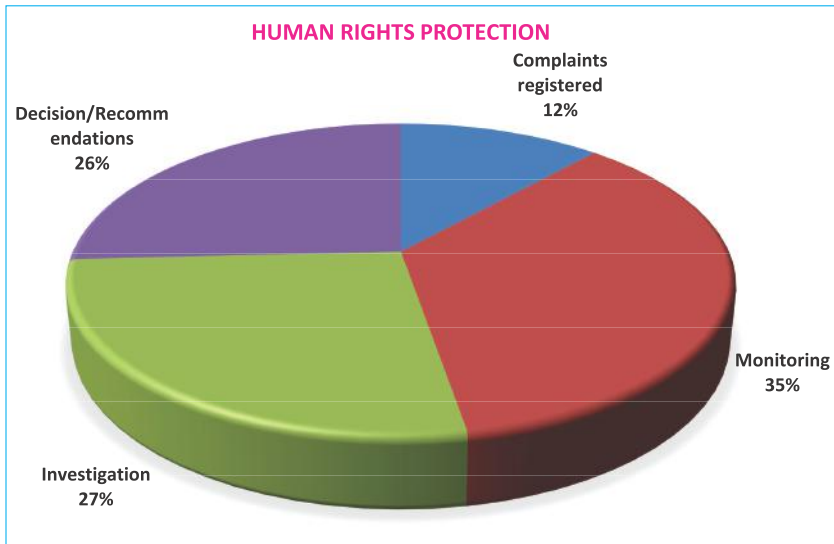
S.n.	Nature of Work	Number	Subject	Remarks
1. Human Rights Protection				
1.1.	Complaints	152	<ul style="list-style-type: none"> • Civil and Political rights • Economic, social and cultural rights • Women's rights • Child rights • Rights against caste-based discrimination • Rights against involuntary disappearance • Rights of migrant workers and their families • Other rights such as rights of senior citizens, rights of refugees, Human trafficking and Environmental rights 	
1.2.	Monitoring	463	<ul style="list-style-type: none"> • Political and Civil Rights: Overall human rights situation; elections to the local, provincial and federal governments, rights of inmates, administration of justice etc. • Economic, social and cultural rights: Right to health, Rights of those living in border areas, Consumer Rights, Rights of those displaced due to natural calamities including floods, landslide and earthquake • Rights of senior citizens, women, children, indigenous nationalities, minority group/marginalized communities, and physically challenged persons, Rights of migrant workers, Situation of human trafficking etc. 	Of the total 463 monitoring works done, 11 were carried out in partnership and co-ordination with others

1.3.	Investigation	350	<ul style="list-style-type: none"> • Civil and political rights: Rights to life, Rights against torture and involuntary disappearance • Economic, Social and Cultural Rights: Displaced, Rehabilitation; Lootings; Compensation • Women's Rights; Child Rights etc. 	
1.4.	Decision / Recommendations	335	Civil and Political Rights, Administration of Justice, Abduction, Displacement, Economic, social and cultural Rights, Torture, Caste-based discrimination, Women's rights etc.	

S.n.	Nature of Work	Number	Subject	Remarks
2. Human Rights Promotion				
2.1.	324		Peace and security and human rights, Election and human rights, Rights of enforced disappeared persons, transitional justice, Right to food, Fourth National Human Rights Action Plan of the Government of Nepal, Dispute resolution at local level, Civil and political rights, Economic, social and cultural rights, Child rights, Women's rights, Rights of physically challenged persons, right to Mental health, Rights of senior citizens, Rights of minority groups, Consumers' rights, Rights of migrant workers, Collective rights, Report writing etc.	

2.2.	37		Justice related tasks, Women's rights, Child rights, Right to education, Right to food, Mental health, Transitional justice, Right against human trafficking, Right against caste-based discrimination, Human rights, development and good governance, Human rights and social justice, Rights of the migrant workers, Role of local level to resolve disputes, Schools as zone of peace, Situation of the Implementation of Universal Periodic Review, Senior citizens' rights, Consumers' Rights, Right to water etc.	Altogether 37 programs were organized in partnership and coordination with others
2.3.	66		Programs organized by the governmental and non-governmental organizations working in the field of human rights	
2.4.	203		Programs organized by the governmental and non-governmental organizations working in the field of human rights	
2.5.	59		Training, Seminars, Discussions, Review	
3. Publications				
3.1	Regular Report	1	Annual Report	
3.2.	T h e m a t i c Report/ Booklet	13	Election special, State of <i>Chhaupadi</i> , (isolating menstruating women and girls), Rights of farmers, Human rights defenders, Situation of persons with physical disabilities, Implementation of recommendations and status of victims etc.	
3.3.	Journal	4	Human Rights Journal <i>Sambahak (Messenger)</i>	

3.4.	Human Rights News Letter	3		
3.5.	Press Releases and Press Notes	50 and 16	Various Issues of Human Rights	
3.6.	Press Conferences	3	The International Conference on Human Rights, the Status of Comprehensive Peace Accord and Human Rights Situation	
4. Human Resource				
4.1.	Chairperson/ Members	1/4		
4.2.	Staffs	197	Currently working in the various offices of the Commission	



Organizational Structure of the NHRCN, Power and Functions

1.1. An Introduction to the NHRCN

Although the modern concept of human rights was developed after the end of the World War II, its development at national and regional level is considered to have begun much before that. Various fundamental but limited provisions of human rights were incorporated in the Constitution of the Kingdom of Nepal, 1958 and the Constitution of Nepal, 1962 as fundamental rights. But no such implementation mechanism was developed to directly protect and promote human rights. Monarchical Panchayati governance system was introduced in the country in 1960. During this governance system, which lasted for 30 years, freedom to form political parties was restricted. Even during such hostile situation, judicial bodies had provided a number of special verdicts to support protection and promotion of human rights.

The issue of human rights was included for the first time in the Constitution of Kingdom of Nepal, 1990, promulgated after the end of Panchayati system. This has been given continuity in the Interim Constitution of Nepal, 2007 and the current Constitution of Nepal promulgated in 2015. Additional economic and social rights have been included with priority along with the rights mentioned in the previous Constitution, in the section of the current constitution that deals with fundamental rights. In case there is obstruction in the exercise of fundamental rights, Constitution has made a clear provision to seek remedy through judicial bodies under their extra ordinary jurisdiction.

Second World Conference of Human Rights was held in Vienna in 1993. Also participated by Nepal, the Conference called for all UN member states to establish an independent and autonomous national body for human rights, while issuing a declaration and action plan for human rights. As a result, rights activists, legal professionals, media fraternity, civil society, intellectual community as well as professional organizations began carrying out various activities demanding establishment of such a body. National Human Rights Commission Act, 2053, was issued after a private bill registered by members of the then HoR received the status of an Act. However, this national body could not be formed even four years after the passage of the Act. Meanwhile, there were peaceful movements of civil society and concern of international

community, and Supreme Court had also issued a mandamus order in this regard. Finally, National Human Rights Commission was established on May 26, 2000.

Established through its Act, the status of Commission was elevated as constitutional body through the Interim Constitution of Nepal 2007. Current constitution has given continuity to the same provisions. Articles 248 and 249 have set the mandates of the National Human Rights Commission. Based on the same mandate, the responsibility of the Commission to submit an annual progress report of its works has been mentioned in Article 294. As per the provisions mentioned above, the complaints lodged at the Commission, details of investigations made into the complaints and investigation details, and recommendations made to the Government of Nepal are mainly included in it. In addition to this, the issues of reforms that need to be made in future for the protection and promotion of human rights have also been included in this report. This report has been prepared to present to Right Honorable President and for the purpose of holding discussion in the federal parliament.

1.2. Organizational Structure

National Human Rights Commission is an independent and autonomous institution established in consistent with the International Guidelines with regard to its Independence and Autonomy - (also known as Paris Principle) and the Articles 248 and 249 of the Constitution of Nepal. Article 283 of the Constitution has stated that appointments in the office bearers' positions of constitutional organs and bodies shall be made on the basis of inclusive principle. There is a provision that there shall be five commissioners including one chairperson and four commissioners. At present, there are nine offices including the central office, five regional offices and three sub-regional offices operating under the purview of the Commission.¹ Established as a body of federal structure, new organizational structure of the Commission will come into effect after the approval from the government. Although number of total vacancies in its office is 309, there are only 197 staffs posted in the current fiscal year. The details of office bearers and staffs working at the NHRC this fiscal year and its organizational structure have been kept in annex 1 and 2, respectively.

1.3. NHRCN Power and Functions

Article 249 of the Constitution of Nepal states that “it shall be the duty of the

1 NHRC meeting held on 22 June, 2018 has decided to restructure the Commission in the changed scenario of the federal structure of the State and sent it to the OPMCM for approval. It has provisioned the Provincial and branch offices.

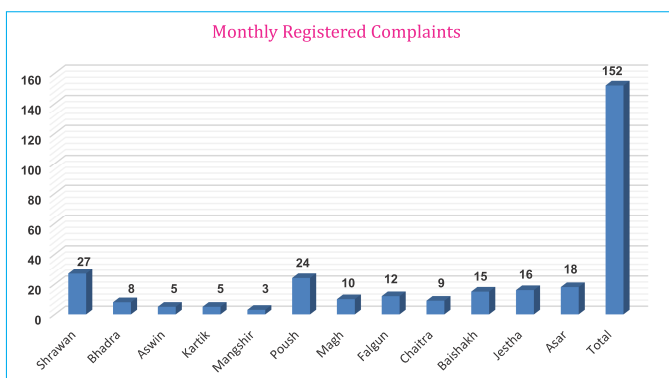
National Human Rights Commission to respect, protect and promote human rights and ensure effective enforcement thereof.” It is the primary responsibility of the state to protect and promote human rights. The Commission has been working for making the state accountable to the protection and promotion of human rights even if the state has played unsatisfying role in the protection and promotion of human rights. The Commission has been carrying out its works regularly within the mandates given to it by the Constitution and its Act. Specifically, the Commission receives complaints and conducts investigation into the complaints, makes recommendations for action in legal front and files cases against the accused of human rights violators. The Commission organizes awareness-raising programs, trainings and advocacy through seminars, meetings and conferences in coordination and collaboration with civil society actors. There is a discussion continuing within the Commission on the constitutional provision that allows it to publish, in accordance with law, the names of the officials, persons or bodies who have failed to observe or implement any recommendations or directives made or given by the National Human Rights Commission in relation to the violations of human rights, and record them as violators of human rights. The Commission has also been recommending to the Government of Nepal for the promulgation of new laws and introducing amendments in the existing laws related to human rights and recommending the government with reasons to become the state party to various international conventions and treaties.

Human Rights Protection

The Commission has been carrying out various works for the protection of human rights including receiving complaints, conducting monitoring and investigation and making recommendations to the concerned authorities for necessary actions.

Complaint Registration

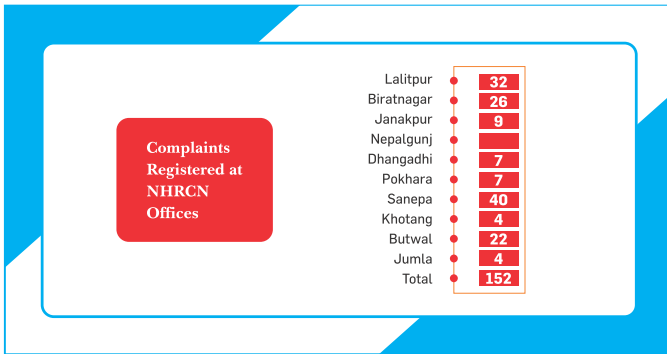
As per the Constitution and law, the Commission has been receiving complaints on the incidents of human rights violations and abetment thereof on the part of individuals, groups or communities for the protection and promotion of human rights. Commission can receive complaints from victims, victim's family, individuals and organization or on the basis of news reports published in media. Upon the receipt of complaints, the Commission has been monitoring on them, carrying out inquiry and investigation into those complaints and making recommendations to the authorities concerned for necessary legal actions. A total of 152 complaints were registered at the Commission's central, regional and sub-regional offices during this fiscal year.



Most of the complaints registered at the Commission are related to political and civil rights, economic, social and cultural rights and torture. If we see the nature of the received complaints, most of them are related to administration of justice, right to life and rights to peaceful assemblies and mass rallies, among others. Similarly, these complaints are also related to health, education, employment and rights to housing and environment. Some complaints are also related to right against torture, women rights, children rights, rights of the persons with disabilities, right against caste-based discrimination and rights of senior citizens.

Region-wise complaints Registered at NHRCN Offices

A total of 152 complaints were registered during this fiscal year. Of the total complaints, 40 complaints were registered in Sanepa Sub-regional Office, Lalitpur while 32 complaints were registered at the Commission's Central Office in Lalitpur.



The lowest number of complaint (only one) was registered in Nepaljung Regional Office, while Sub-regional offices in Jumla and Khotang received four complaints each. Similarly, seven complaints were registered in both Dhangadhi and Pokhara regional offices. Altogether 26 complaints related to human rights were registered in Biratnagar Regional Office, 22 in Butwal Regional Office and nine complaints in Janakpur Regional Office.

Complaints Related to Core Conventions

While going through the nature of complaints based on nine core conventions, complaints based on civil and political rights tops the list with 80 cases during this fiscal year. A total of 13 complaints on economic, social and cultural rights were registered. Similarly, 14 complaints were registered on torture, 8 on child rights violations, 15 on women's rights, 11 on violation of immigration rights, four on rights against discrimination and two others were against enforced disappearance. Of the total 152 complaints, 3 complaints were on senior citizens' rights and one complaint related to human trafficking and one refugee rights were registered within the reported fiscal year.

Thematic Complaints

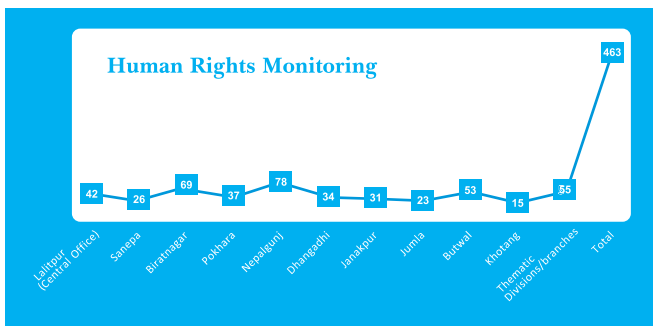
A total of 38 cases related to Administration of Justice were registered in the Commission followed by 19 on right to life. Similarly, 14 complaints on torture, 11 on migrant workers' rights and seven each on threats and misconduct were registered during this fiscal year. The Commission also received eight complaints related to child rights violation, four complaints

each related to right to freedom/organizing peaceful rallies and mass-meetings and discrimination and three complaints on rights of senior citizens, while the nature of two other complaints received remains unclear. Likewise, one complaint each was received on issues related to human trafficking, refugee, inmates, displacement, housing, education, consumer and air pollution.

The Commission has been providing necessary suggestions after cases of human rights violation are registered with it. It forwards complaints to other offices if they are beyond its jurisdiction and provides suggestions to those filing the complaints. The Commission provided a total 138 counseling services during this fiscal year.

Human Rights Monitoring

The Commission has been conducting monitoring separately or in collaboration and coordination with other stakeholders. The monitoring division of the Commission conducts monitoring of direct or indirect events related to human rights violation. In addition to this, other thematic divisions, desks and units also conduct separate or joint monitoring activities. Monitoring activities are being conducted keeping in view the implementation status of rights provisioned in international treaties and conventions of human rights and those provisioned in national laws, state’s policy directives and the Human Rights National Action Plan. Monitoring activities are conducted on regular basis or event based in accordance with the necessity, context and gravity of the problem concerned. During this fiscal year, the Commission focused its monitoring activities on various rights including civil and political rights, economic, social and cultural rights, rights of women and children and rights against torture.



Overall human rights situation, election from human rights prospective, rights of inmates, situation of prisons and custody and illegal detention, among others, were the issues monitored under civil and political rights. Similarly, social and cultural rights, status of hospitals as well as health condition, consumers’

rights, and rights of those displaced due to natural disasters (flood and earthquake) were monitored under issues related to economic rights. In addition to this, the Commission has been monitoring human rights of senior citizens, women, children, indigenous communities, minority groups, and marginalized communities, persons with physical disability, migrant workers and victims of human trafficking. It has also been monitoring human rights of people living along bordering areas with high priority. Preparations are proceeded to publish the monitoring report. Members of the Commission and experts are also directly involved in monitoring activities based on necessity and importance of the issue concerned.

During this fiscal year, the Commission conducted 464 (409 and 55) monitoring on various issues related to human rights. Of the total cases monitored, 78 monitoring activities were conducted by Nepalgunj, 69 by Biratnagar and 53 by Butwal. Similarly, Central Office conducted 42 monitoring activities, Pokhara Regional Office 37, Dhangadhi 34 and Janakpur 31. Sub-Regional Office Sanepa conducted 36 monitoring activities, Jumla 23 and Khotang 15 monitoring activities during this fiscal year. In addition to this, International Treaty Monitoring Division of the Commission conducted 40 monitoring during this fiscal year. Thematic Division and units also conducted 55 issue-based monitoring works within this fiscal year.

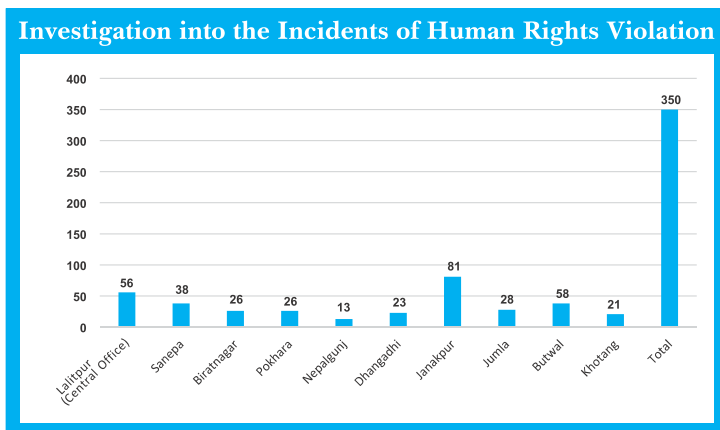
Altogether 11 monitoring activities were carried out in this fiscal year in coordination and collaboration with other governmental offices and human rights organizations. The government offices collaborated for monitoring including District Administration Office, District Police Office and Office of Women and Children, and District Child Welfare Committee, among others. Similarly, the Commission also worked with various non-governmental organizations including Women's Rehabilitation Center-Nepal (WOREC-Nepal), KIRDARC-Nepal and Save the Children, among others, to monitor human rights situation.

Investigation into the Incidents of Human Rights Violation

The Commission has been advancing its activities by putting investigation works in priority with regard to the incidents of human rights violation and the act of abetment as stated in the Constitution, various laws, its Act and other legislations. As in the previous years, the Commission has accomplished investigation into pending cases and complaints registered during this fiscal year. Records show that the Commission conducted investigation into 350 complaints.

Investigation Division at the Central Office and NHRC offices has been

conducting investigations into the cases of human rights violation. During this fiscal year, 81 cases were investigated by Janakpur Regional Office, 56 by Central Office, 38 cases each by Sanepa and Butwal Sub-regional offices and 28 by Jumla Sub-Regional Office. Similarly, Regional Offices Biratnagar and Pokhara conducted investigation into 26 complaints each, while Dhangadi Regional offices investigated 23, Khotang Sub-regional Office 21 and Nepalgunj Regional Office 13 complaints. Most investigated cases are related to armed conflict where plaintiffs have complained deprivation of civil and political rights or violation of their human rights such as torture and enforced disappearance.



Similarly, complaints are also related to violation of economic, social and cultural rights, displacement, confiscation of property, delay in getting compensation of the looted properties and rights of women and children. During this fiscal year, various offices completed investigations into 219 backlog as well as latest cases and forwarded to the Central Office for final decision.

A total of 335 complaints were settled during this fiscal year. Out of them, 105 recommendations (92 cases related to complaints and 13 others related to policy issues) were made on these complaints. Similarly, 164 complaints have been dismissed or put on hold, 32 complaints were repealed, while one case is in the process of settlement. Thirty-three cases were resent to the respective offices, suggesting them to resubmit, completing all procedures.

Promotional activities have special role in catering human rights education and raising awareness on human rights, advocating and promoting human rights, and expanding information dissemination related to human rights. Under the constitutional and legal obligations, the Commission has been conducting these kinds of promotional activities. Human Rights Coordination

and Collaboration Guideline of NHRC - 2013 has been issued in order to make promotional activities more effective. The activities carried out in accordance with the Strategic Plan of the Commission have always extended support to the promotion of human rights and human rights culture.

The Commission has advanced all its activities based on the slogan ‘*Human Rights in Every Household for All: Basis for Peace and Development*’. To make this campaign a success, Promotion Division, Thematic Divisions, Units and its offices located in different parts of the country have either separately or in coordination and collaboration with others have been carrying out various activities in the field of human rights promotion. Activities carried out in this way for the promotion of human rights included interaction, discussions, seminars, training and workshops.



The Commission conducted a total of 324 (289+35) promotional activities during this fiscal year. Data documented at the Central Office show that Dhangadhi and Pokhara Regional Offices each conducted 43 promotional activities, while the Central Office and Butwal Regional Office each conducted 34 such activities during this fiscal year.

Similarly, Biratnagar and Khotang each conducted 31 promotional activities and the number of promotional activities conducted by NHRC office in Nepalgunj, Jumla, Janakpur and Sanepa stood at 30, 20, 13, and 10, respectively. In addition to this, records show that Thematic as well as other Departments at the Central Office conducted a total of 35 promotional activities during the given period.

Promotional Activities

The total, 37 programs have been conducted in coordination and collaboration with the Central Office. The NHRC provided resource persons and experts in 66 programs, while it participated in 203 programs as chief guest, guest and participant in human rights-related programs organized by human rights as well as other professional organizations.

During this fiscal year, the Commission internally conducted 59 trainings, seminars and discussions and review meetings. Sub-regional offices based in Jumla and Khotang published their separate brochures. The Central Office, regional and sub-regional offices have been broadcasting radio programs and radio jingles on human rights issues in both Nepali and local language through local FM radios. The Commission also disseminates information in its website and social media platforms such as Twitter and Facebook.



Some of the programs organized as a part of promotional activities have seen the participation at the level of Commissioner. Such promotional activities are also conducted in coordination and collaboration with others as well. As a part of Judicial Committee related activities, various programs were organized in collaboration with local level governments in Kathmandu, Lalitpur, Bhaktapur, Tanahu, Sindhuli, Gulmi, Dolakha and Ramechhap districts, among others. The central office has been collaborating with various organizations including

Former Judges' Society, NGO Federation, National Federation of Disabled, Nepal, Consumers' Forum-Nepal and Pro-Public. The Commission has been collaborating with the Aging Nepal, CZOP Nepal, LAHURNIP, Human Rights Organization of Nepal, FWLD and Dalit Women Association. The Commission has also collaborated with various INGOs including UN agencies such as UN FAO, Lutheran Federation and Save the Children. At the regional level, collaboration and coordination has been established with Nepal Red Cross Society, Office of Women and Children and the main organizing committee formed to celebrate Women Day on issue-basis. Collaboration were also made with the NGOs such as Third Alliance, Advocacy Forum, Blue Diamond Society, WOREC Nepal, Conflict Victims' Society, Kailali District Food Rights Network and NIDS, among others, for conducting promotional activities. NHRC has coordinated and collaborated with Child Club Network, 16-Day Campaign on Violence against Women and district chapters of Chamber of Commerce and Industries and hotel entrepreneurs.

Relationship between NHRCN and Other Stakeholders

NHRCN and Office of the President

Constitutionally, NHRC requires submitting its annual report to the President every year. There is a provision to table the report by President through Prime Minister in the federal parliament for necessary discussions. Adhering to the same constitutional provision, the Commission has been submitting its annual report that incorporates activities carried out by the Commission every year to President. A team of the Commission headed by the Honorable Chairperson submitted its annual report to the Rt. Honorable President Bidya Devi Bhandari on December 8, 2018. Members of the Commission, Secretary and senior officials were present during the submission. On the occasion, Honorable Chairperson briefly highlighted the activities carried out by the Commission, challenges being faced in protecting human rights and other various aspects of human rights in Nepal. President thanked the Commission for protecting human rights and promoting human rights culture even in adverse situation and challenges in the country. She also assured that she would take further initiative to promote human rights culture from her position, and she also urged the Commission to engage more actively for the promoting human rights culture in the country.

The Commission also briefed to the Rt. Honorable President in the context of organizing an international conference on *“Identifying Challenges, Assessing Progress, Moving Forward: Addressing Impunity and Realizing Human Rights in South Asia”*. The conference focused on various aspects of human rights in South Asia. President inaugurated the three-day conference and addressed to the delegates. Full text of the speech delivered by the President in the conference is included in Annex-X.

NHRCN and the Nepal Government

The first and foremost responsibility to respect, protect and implement human rights is that of the government. It is the responsibility of the state to provide adequate budget, office space and other basic facilities to carry out the day-to-day activities and carry out various promotional and protection related activities of human rights. These and similar other activities become effective only when there is mutual collaboration and cooperation.

The Commission has been holding discussions and consultation with the government agencies on the human rights and various other issues including financial and administrative issues related to the Commission. Since the implementation of the recommendations made by the Commission entails financial burden, this is possible only through collaboration and cooperation with the government. Depending on necessity and the gravity of the issue concerned, the Commission has been inviting prime minister, ministers and senior officials at its office. The Commission has been holding discussions and interactions with them on overall human rights situation in the country, law and order and other important human rights issues. Based on the findings received, the Commission has also been assisting the government to protect and promote human rights and issuing necessary directives as well.

A discussion was held at the Commission on November 9 in the presence of the NHRC Commissioners and government secretaries including finance secretary to address the ways to ease financial crisis faced by the rights body. On the same day, the Commission summoned Secretary at the Ministry Foreign Affairs (MoFA) and chief of UN division at the ministry to hold discussion mainly on the issue faced by Nepali migrant workers. On November 2, an interaction program was organized to hold discussion on the implementation of orders issued by the courts and various decisions and recommendations made by the Commission. Chief Registrar of the Supreme Court and Secretary at the Office of the Prime Minister and Council of Ministers (OPMCM) were among those present during the discussion program. A two-day human rights training on inmates' rights was also organized for the chiefs of various prisons based in Kathmandu Valley on November 15. As part of observing International Migration Day, a discussion program was organized on December 20. The program aimed at ensuring safer migration for migrant workers. Representatives of NGOs and INGOs attended the program. In addition to this, discussions were also held with the Secretary of OPMCM on ways to protect and promote human rights and make transitional justice effective.

Similarly, a discussion program was organized on December 29 with the objective of making international human rights conference successful. The NHRC Commissioners, secretary and chief secretary of Government of Nepal, Secretaries from Ministry of Home Affairs, Ministry of Finance and MoFA were present in the program. Also, a memorandum of understanding was signed with the Governance Facility for collaboration to make the conference a success. Prior to this, a discussion program was also organized to evaluate this project. Law Minister attended the closing ceremony of the conference.

The Commission also conducted various programs to address woes of conflict victims. It organized an interaction program to discuss on the amendment bill introduced to revise the transitional justice related Enforced Disappearance Inquiry, Truth and Reconciliation Commission Act-2014. Law minister had presented his views on behalf of the government.

Similarly, the Commission held discussion with Right Honorable Prime Minister to save the life of Ganga Maya, who had launched fast-on-to-death protest for justice, and discuss other concurrent human rights issues. The government was positive towards the issues raised by the Commission. Currently, police have taken perpetrator into control and Ganga Maya has ended her hunger strike (NHRC chairperson offered juice to break Ganga Maya's hunger strike).

In addition to this, the Commission has been drawing attention to the government on various burning issues of human rights by inviting head of the government and ministers at its functions. Security agencies have also been inviting NHRC officials as expert members in their program organized for their officials. The Commission officials have been attending human rights related programs organized by the government to express its views on human rights.

NHRCN and Judiciary

Judiciary has special role in the protection of human rights and promotion of human rights culture. Keeping this fact in mind, the Commission has been working in a coordinated manner. In this context, the Commission on November 19, 2017 organized a discussion program on the implementation of human rights related court orders, verdicts, decisions and recommendations. Chief Registrar of the Supreme Court attended the function. Similarly, the Commission organized a workshop on December 29, 2017. The workshop focused on the implementation of recommendations made by the Commissions and court verdicts. Supreme Court's Chief Registrar had made a presentation on the status of execution of court verdicts in the workshop. SC Chief Justice was present as chief guest, while the Commission chairperson chaired the function.

NHRCN and Other Constitutional Bodies

Various works related to human rights are being carried out in coordination and collaboration between the NHRC and other constitutional commissions. The NHRC coordinated and collaborated based on special nature of works with two constitutional bodies -- Public Service Commission and Election Commission of Nepal (ECN) during this fiscal year.

The Commission advanced human rights related works in collaboration

and coordination with the ECN as well during this fiscal year. The NHRC and ECN had signed a Memorandum of Understanding (MoU) in order to monitor local level elections from human rights perspective. In the MoU, the two Commissions agreed to cooperate each other to facilitate monitoring and publish, prepare and disseminate/broadcast materials related to voters' education either separately or jointly as necessary. In addition to this, the NHRC was entrusted with responsibility to inform lapses of ECN seen during the election monitoring and work together to address those weaknesses, establish a mechanism at the level of commissioners of both of the commissions and respect each other's' jurisdictions. The NHRC already submitted a report to the ECN, highlighting the lapses seen during the election monitoring and ways forward to avoid them in the upcoming elections.

Various vacant positions in the Commission have been filled this year. The Commission mandated the PSC to conduct written examinations for selecting qualified candidates. Based on the agreement, the PSC conducted written examinations to select qualified candidates and the names of short listed candidates were published accordingly. Selected officials have already been deployed to their respective workstations. The PSC had written to the Commission to ensure provisions of basic principles of civil servants. But the Commission wrote to the PSC that basis of establishment of the Commission is Paris Principle so basic principles provisions would not be applicable in case of NHRC since the Commission is not a government office. Later, the PSC wrote to the Commission that basic principle would not be mandatory in case of the NHRC. Since then, the PSC has been assisting the Commission to conduct written examinations when requested. Recruitment process in collaboration and coordination with the PSC has positively contributed to address the long-standing problem of human resource management and the stability of the NHRC.

NHRCN and International Organizations

The Commission has been collaborating and coordinating with various international organizations, donor agencies and foreign diplomatic missions in coordinated manner in course of performing its tasks. These tasks include exchange of views on the state of human rights situation and exchange of cooperation and experience. In this connection, the NHRC chairperson and commissioners participated in 14 programs and its secretary and staffs participated in 18 programs in total.

During this fiscal year, the Commission held meetings with Harvard University's Assistant Professor, Danish Institute for Human Rights, Australian

Ambassador and UN Resident Coordinator in Nepal. United Nations Special Rapporteur on Migrant Workers, UN Assistant Secretary General (Political Affairs), and UNHCR representative also held discussion with the NHRC on various aspects of human rights and refugee issue in Nepal. NHRC conducted meetings with ambassadors from Switzerland and New Zealand on human rights situation and mutual cooperation.

A NHRC delegation comprising of its chairperson, members and secretary attended the 22nd Annual General Meeting of the Asia Pacific Forum of National Human Rights Institutions held in Bangkok, Thailand. The Commission officials also attended high-level dialogue organized by UNDP in Bangkok, Thailand. The Commission members also visited Indian Human Rights Commission and discussed on human rights situation. Likewise, the Commission organized an international human rights conference entitled *Identifying Challenges, Assessing Progress, Moving Forward: Addressing Impunity and Realizing Human Rights In South Asia* from April 9 to 11 in Kathmandu and discussion was held on human rights situation and challenges being faced in the region.

NHRCN and Transitional Justice

The Commission has been prioritizing to complaints related to armed conflict since its establishment. It was stated in the Comprehensive Peace Agreement (CPA) that those cases would be resolved through transitional justice mechanisms. But these mechanisms have not been formed till now. Two commissions Truth and Reconciliation Commission and Commission on the Investigation of the Enforced Disappeared Persons were formed on February 5, 2015, as per the Enforced Disappeared Inquiry and Truth and Reconciliation Commission Act 2014. Both the Commissions were asked to complete the task within two years. But they failed to accomplish the tasks as expected. As a result, an ordinance was introduced to give new lease of life to the commissions in 2018. Questions were raised from both national and international level over some of the provisions of TRC and CIEDP. SC also ordered the government to formulate the Act in line with international standards. The government is currently making efforts to revise the Act.

In this context, the Commission has been coordinating and collaborating with concerned stakeholders on transitional justice process. Additionally, the Commission held series of discussions or interactions with the government, political parties, and civil society members, various organizations working in the area of transitional justice, conflict victims and other stakeholders. A joint

meeting was held with Chairpersons of both these transitional justice related Commissions on December 20, 2017 and a separate meeting with CIEDP Chairperson on January 5, 2018 to discuss about the ongoing transitional justice process. Later, the Commission made public 11-point concept paper on transitional justice process. It clearly asked the government not to grant amnesty to those involved in serious human rights violations and amend the transitional justice related laws in accordance with the Supreme Court order and international standards. Similarly, it stressed on the need to formulate laws to categorize heinous crimes like disappearance and torture as criminal cases to book guilty persons and protect victims, eyewitnesses and evidences to hold guilty persons accountable.

NHRCN and Strategic Plan Support Project

The UNDP-funded project has helped the Commission to organize trainings and publish various materials. Newly recruited officers were trained with the financial assistance of the project. The trainings conducted with the help of the fund provided by the project included Intermediate Level Training on ICCPR, CERD, ILO 169, Training on Mental Health and Human Rights Situation, CRPD and Training on Report Writing. The project's funding was also used to organize trainings on Accounting and Administrative Management and Advanced Level Training on Leadership and Management. In addition to them, regional level trainings were organized in Biratnagar, Pokhara, Nepalgunj and Dhangadhi for health workers and human rights defenders. A public perception survey on NHRC was conducted to understand people's views on the rights body. An expert-led survey was conducted a study about organizational structure of the Commission in new federal set up. Similarly, the Commission formulated Non-discrimination and Diversity Policy and Public Relation Strategy Policy, while it also conducted a study on the implementation of the status of UN Convention on the Rights of Persons with Disabilities. It helped to monitor local level elections and publish monitoring reports. The Commission published its annual report and Frequently Asked Questions (FAQ) in both Nepali and English languages, incorporating basic information for general public. It also organized human rights film festivals in Janakpur, Kailali, Jumla and Surkhet.

The Project helped to organize an international conference entitled *Identifying Challenges, Assessing Progress, Moving Forward: Addressing Impunity and Realizing Human Rights In South Asia* and hold high-level dialogues in Bangkok and Indian Human Rights Commission.

Chapter-V

Achievements, Challenges, Possible Measures and Way Forward

Achievements

As in the past, the Commission has accelerated various works related to protection and promotion of human rights with priority during this fiscal year as well. Working in line with its slogan “*Human Rights in Every Household for All: Basis for Peace and Development*,” the Commission has accomplished these types of works. Different types of achievements have been made based on the tasks accomplished. They are as follows:

Complaint Handling, Monitoring and Investigation

During this fiscal year, the Commission received 152 complaints. Monitoring has been conducted 463 times on various issues of human rights. A total of 219 including both backlog and new cases have been investigated during this fiscal year and they were forwarded to the Center for final decision.

National Human Rights Commission had coordinated with Indian Human Rights Commission on issues related victims. Indian Human Rights Commission had subsequently directed Indian government to provide compensation following the coordination. Based on the recommendation made by the Indian Human Rights Commission, a Nepali national, Mukul Roy Yadav, who was killed by Indian security personnel, was provided compensation.

Settlement of Cases and Recommendations

A total of 335 complaints were settled during this fiscal year. Out of them, 105 recommendations (92 cases related to complaints and 13 others related to policy issues) were made on these complaints. Similarly, 164 complaints have been dismissed or put on hold, 32 complaints were repealed, while one case is in the process of settlement. Thirty-three cases were resent to the respective offices, suggesting them to resubmit, completing all procedures

Promotional Activities

A number of different achievements have been made through human rights promotional activities. Record at the Commission shows that a total of 324 programs for the promotion of human rights were organized during this fiscal year. The Commission was more focused on supporting the local units to make

dispute resolution mechanism effective. As part of empowering local dispute resolution mechanisms, altogether 59 programs such as trainings, seminars, discussions and review meetings were held in this fiscal year.

The NHRC organized second national conference of human rights defenders. The conference has endorsed Human Rights Defenders' Declaration-2018. The Commission also organized conference on persons with disability in all seven provinces in collaboration with National Federation of the Disabled, Nepal. Additionally, it has conducted a nation-wide study on priorities of human rights. Women's rights, child rights, right to health, right to education and right to health, respectively, were identified as top five rights in priority.

The Commission made its presence in 269 programs as the chief guest and guests and also participated in 261 programs (Expert Service/Resource Person in 66 programs and Chief Guest/Guest and Participation in 203 programs). The Commission has produced thematic radio programs and broadcasted them from FM radio stations based in Kathmandu Valley and other parts of the country.

Publications

The Commission published altogether 15 publications including reports and journals during this fiscal year. These include annual and thematic reports as well. Thematic reports are related to human rights situation in prison and custody, status of human rights defenders and local, provincial and federal parliamentary elections. Five priorities of human rights, implementation status of recommendation and status of victims are also included in the thematic report. The report also includes impact of *Chhaupadi* among women, human rights status of persons with disability and rights of the peasants.

The Commission has been continuing publications of its own journal entitled *Sambahak* (tri-monthly journal). Altogether 32 writers have authored research articles on various issues including on status of senior citizens, human rights of prisoners, right to food and human rights in the context of Nepal, bases of interrelation between NHRC and other commissions and status of NHRC recommendations and implementation. Likewise, issues related to human rights of people living along border, human rights situation of *Badi* community, right to fair trial, impact of prevailing impunity, issues of human trafficking and victim's access to justice have also found in the journal.

Press Releases and Press Notes

The Commission issued 50 press releases and 16 press notes on various contemporary issues of human rights during this fiscal year. Three press

conferences were also organized on the theme of “11 years of CPA and Human Rights” and to announce preparation of International Human Rights Conference and its Declaration after the conclusion of the conference.

Human Resource Management

The Commission has completed written examinations for various positions with the support of the PSC. The Commission recruited four directors, 11 deputy directors, two human rights officers and one admin/account officer through an open competition as per the vacancies announced in 2074-2075 BS. In addition to this, written examinations have been already held to select one director, two deputy directors, two human rights officers, one administration/account officer through an internal competition and two directors, three deputy directors, 18 human rights officers and one admin and account officer through an open competition.

Collaboration and Coordination

National Level

The Commission has given continuity to collaboration and coordination with national and international organizations during this fiscal year as well. Altogether 48 programs (11 human rights protection programs and 37 promotional activities) were held in collaboration with governmental and non-governmental organizations and professional organizations during this fiscal year.

The Commission participated in 269 programs related to human rights (Chief guest/guest and participant in 203 programs and Resource person/expert service in 66 programs) organized by various human rights and professional organizations.

International Level

The Commission has given continuity to its works in collaboration and coordination with different agencies of the United Nations, Global Alliance for National Human Rights Institutions (GANHRI), Asia Pacific Forum of NHRIs (APF) and various International donors and Embassies at the international level. Honorable Chairperson and Commissioners as well as staffs have been making international visits time and again for various purposes including for discussions, exchange of experience and training on various human rights issues. During this fiscal year, chairperson and commissioners participated in 14 international programs, while Secretary and other staffs participated in 18 programs.

During this fiscal year, the Commission held meetings with Harvard University’s Assistant Professor, Danish Institute for Human Rights,

Australian Ambassador and UN Resident Coordinator in Nepal. Similarly, discussions were held with United Nations Special Rapporteur on Migrant Workers, UN Assistant Secretary General for Political Affairs and UNHCHR representative on various aspects of human rights and the issue concerning refugees. Meetings were held with ambassadors from Switzerland and New Zealand on mutual cooperation and the situation of human rights.

Another important task of the Commission in this fiscal year was hosting of an international conference entitled *“Identifying Challenges, Assessing Progress, Moving Forward: Addressing Impunity and Realizing Human Rights in South Asia*. Inaugurated by the President of Nepal, the conference lasted for three days. Experts presented their papers on five different issues including Fundamental Rights, National Security and Human Rights, Migration and Human Rights, Transitional Justice and Truth Commissions, NHRIS at Regional and Domestic Level and Rights of Women and other marginalized group of people. A 19-point Kathmandu Declaration on Addressing Impunity and Realizing Human Rights in South Asia was also issued on April 11, 2018.

Challenges

The Commission has been facing one or the other challenges since its inception. Internal and external challenges continue to exist as they were before. The Commission did not remain free from challenges this fiscal year as well. The challenges faced by the Commission can be explained as follows:

Poor Implementation of NHRCN Recommendations

The Commission has been conducting investigation into both backlog and new complaints related to violation of human rights. Additionally, the Commission has been conducting research on different issues related to human rights. Based on the findings of investigation into the cases of violation of rights and its researches, the Commission has been recommending to the government for necessary actions as provisioned in Article 17 (2) and (3) of the NHRC Act 2012. The Act states, “The Commission shall have to write to the concerned official, individual or agency for the implementation of the recommendation, decision or order issued by the Commission pursuant to the Constitution or this Act. In case of receiving in writing from the Commission to implement the recommendation, decision or order, the concerned official, individual or agency shall have to inform the Commission generally upon implementing such recommendation, decision or orders.

But the implementation of the recommendations forwarded by the Commission since its establishment for taking action against guilty persons is not seen expedited. This is very sad aspect. This clearly shows that the implementation aspect of preventive and reformative recommendations made by the Commission is very weak.

A taskforce was formed by the initiative of the Office of the Attorney General (OAG) to study into complexities seen in the implementation of recommendations made by the Commission to file cases. The Taskforce comprised of representatives of OPMCM, OAG and NHRC. But no progress has been made in this regard. The number of cases for preventative recommendations made by the Commission, demanding investigation and providing justice to victims is 856. This number includes the 1,483 recommendations² made by the Commission for implementation. Similarly, 71 recommendations were made in the fiscal year 2073-2074 BS.³ If we see the status of the implementation of recommendations made by the Commission between 2001 BS to 2017 BS, only 12.5 percent of the total 810 recommendations were fully implemented, 48.3 percent recommendations were implemented partially and 39.2 percent others are under consideration. It seems that only the recommendations made for providing compensation are implemented. Recommendations made for taking action against those involved in human rights violation remain largely not implemented. It is an irony that those recommended for taking actions are rewarded by the state. The elected government and stakeholders must be sensitive to these issues.

Unresolved Transitional Justice Cases

Transitional justice cases related to armed conflict remain still unresolved. Possibility to resolve these conflict-era cases remains almost zero despite repeated extension of the terms of transitional justice mechanisms. If seen their performance to this date, it seems the commissions are formed just to display others and puzzle their stakeholders. Delay in amending the law in accordance with the Supreme Court's order and suggestions provided by the Commission, lack of expert and necessary human resources and necessary fund, internal feud and partisan interests of political parties have equally hindered momentum in their works. Investigations into 2,500 cases categorized for detailed investigation by the CIEDP and 61,615 complaints registered at the

2 *The paper entitled "the situation of the implementation of the recommendations, verdicts, directives related to human rights and the state obligation" presented in the program organized by the NHRC on 22 December, 2017.*

3 *Ibid*

TRC have not received momentum as anticipated. Recommendations made by the NHRC also seem to have been left unimplemented. It is widely felt that hope of getting justice is gradually fading.

Prevalence of Impunity



Even as elected governments are in place from center to local level, impunity is still prevalent in the country. Law enforcement is weak and human rights violators and those accused of committing crime are not booked due to political protection. Chances of ensuring justice to victims seem little with reluctance in activating transitional justice mechanisms. Implementation of only 12.5 percent of all recommendations made by the Commission also paints miserable picture of human rights situation in the country. According to the Supreme Court Report 2016-2017, 1,12,126 years and seven months of prison terms remains unimplemented. This state of impunity shows that challenges are still in place to protect and promote human rights.

Ineffective Enforcement of Laws

Although it is widely said that political transition has now ended, this is not felt in practice. Tendency to fulfill demands through street protests still prevails

in the country. Be it medical sector or public transportation sector, strikes in essential services have been normal thing. As government and state fail to enforce the law effectively, tendency to take laws in hand is growing. Failure to take action against those involved in human rights violation and inability of general public to feel rule of law also indicates that protection of human rights and development of human rights culture has failed to take its pace.

Not getting anticipated support from the Government

The Commission does not enjoy support as anticipated from governmental agencies in respect, protection and the adherence of human rights and development of human rights culture. The budget being provided by the state to run need-based programs has also been curtailed.

The Commission has revised its previous organizational structures after country adopted new federal set up in accordance with the new Constitution. But the government has not taken any decision about that even after the Commission decided to this effect and forwarded the proposal to the government for the final approval. The Commission had forwarded issues related to revision in the NHRC Act-2012 along with clarification for the need of revision in the changed scenario. But the Act has not been revised yet. In addition to this, the Commission had prepared a draft of Act on terms and conditions and facilities for NHRC staffs and forwarded it to the government for approval. The government has not taken any initiatives in endorsing it. This has directly affected the performance of the Commission and career growth of its staffs.

Lack of Transparency in the Expenses incurred by NGOs and INGOs

Questions have been raised from various quarters over transparency of national and international non-governmental organizations working in the field of protection and promotion of human rights. This has affected even the works of other organizations that have been working honestly. As a result, negative message has been spread among as they have failed to be transparent in their expenses and activities or make other transparent. Questions have been aroused over credibility of human rights organization as achievement of their objectives is reflected only in their report, but not in practice.

The Commission itself is unaware of the fund received for the Commission from various donor agencies as mentioned in the website of Ministry of Finance since last three years. The issue has not been resolved despite repeated correspondence with the ministry. The government agencies [Finance Ministry] must be sensitive since Commission is internally accepted as a

financially independent institution as per the Paris principle and the issue is equally seen as a matter of national image. It is not desirable to have such dispute between the government and constitutional bodies. Thus, the dispute needs to be resolved immediately through dialogue.

Lack of Physical Infrastructures

The Commission has been passing through extremely difficult situation right from its establishment. The Commission is forced to carry out its works amid lack of adequate physical means and resources. The central office of the Commission damaged by the earthquake in 2015 has not been reconstructed yet. The office is currently running in a makeshift prefab house. Rainfall in rainy season affects day-to-day works and even causes damages in the Commission's physical property. Various difficulties seen time and again as its other offices also operate from rented houses. The functions of the Commission are largely affected, as there are no appropriate infrastructures as compared to human resources.

Jurisdictional Overlapping between NHRCN and Other Commissions

In addition to NHRC, existing Constitution has envisioned six other commissions. These include National Inclusion Commission, National Dalit Commission, National Women Commission, Indigenous Nationalities' Commission, Madhesi Commission, Tharu Commission and Muslim Commission. Not much discussion has been held on the jurisdiction and nature of work between the NHRC and other constitutionally envisioned Commissions. There is also lack of uniform understanding among these Commissions on these issues. Direct impact of this is likely to fall on its day to day functioning or a situation of disputes is likely to arise among these Commissions.

Failure to achieve desired result due to lack of coordination

There is still lack of coordination and collaboration among the stakeholders on issues related to human rights. As a result, there exists a lack of coordination among governmental organizations, governmental organizations and NGOs and NGOs with other NGOs, often involving in duplications of the same work. There is a tendency to show more works in report than in practice. Also, there has not been any change in the tendency of buck passing responsibility. Budget is being spent just before expiry of fiscal year to avoid it being frozen. In the end, the budget expenditure has been just like putting water in sand and there has not been achievement of expected result as compared to the investment made in it.

Prevalence of Conservative or Orthodox Mentality

Orthodox mentality is deep rooted in Nepalese society even today. Irrespective of the ongoing debates on rights, freedom and equality, Nepali society is still not free from ill practices like witchcraft, *Chhaupadi* and dowry system. Women have been the worst victims of these traditions. Inhumane acts like forcibly feeding human excreta and urine, and shaving their head and taking them around city, beat them mercilessly and even killing on charge of practicing witchcraft are still taking place. Many women are burnt alive for not bringing or bringing little dowry in marriage. Deaths of menstruated women practicing *Chhaupadi* while being forced to live outside their home have been routine incidents.

Possible Measures to Overcome Challenges:

The stakeholders need to follow the following suggestions to address aforementioned challenges:

To the Government of Nepal

- a) To create an environment for the implementation of the Constitution, Act, and law;
- b) To assimilate values of human rights in Act and Rules under formulation;
- c) To implement the Commission's recommendations effectively;
- d) To create an environment to promulgate necessary laws and regulations for TRC and CIEDP so that the Commissions could work properly;
- e) To book all those involved in unlawful activities and those accused by the court to the legal front;
- f) To end impunity and respect the rule of law and human rights;
- g) To provide necessary financial assistance and resources including the office building for the Commission;
- h) To create an environment to table the Commission's annual report at the parliament and hold discussions over it;
- i) To endorse amendment bill on NHRC Act and NHRC Service Bill from the parliament without further delay;
- j) To endorse the Commission's revised organizational structure immediately;
- k) To implement Human Rights National Action Plan effectively,

To the Political Parties

- a) To respect rule of law by not giving protection to impunity;
- b) To take necessary initiatives to bring constitution into implementation;
- c) To give special support to the government to maintain peace and security;
- d) To move ahead forging common approach on issues related to human rights in new federal set up

Way Forward

As the national human rights institution, the Commission has been working for protection, promotion and respect of human rights and development of human rights culture. The Commission has been advancing all its activities mainly on the basis of the Constitution, Act, Regulation and its own Strategic Plan (2015 -2020 AD).

There is a situation to move forward by holding further discussions on issues such as to what extent was the Commission able to address values of human rights incorporated in the Constitution, Act and Regulation; what are the issues that need to be revised and what are the opportunities and challenge that lie ahead. It seems desirable to move ahead by forging future strategy after analyzing whether the coordination and collaboration between the Commission and victims, Commission and NGOs/CSOs, professional organizations and stakeholders, Commission and the government, Commission and human rights organizations and donors had yielded expected results.

The country has already entered into federal set up. Governments formed in all three levels are expediting their activities. Realization of human rights largely depends on the activism of the Commission and the government's commitment and implementation of the recommendations. For this, all federal, provincial and local government should work collectively in a coordinated manner. There is also a need to take coordination and collaboration with parliament, government, constitutional bodies, political parties, CSOs, NGOs and stakeholders (citizen) to a new height. Additionally, there is a need to strengthen relations with national, regional and international organizations working in human rights sector and donors in the changed context.

If we see the aspects mentioned above, both opportunities and challenges lie ahead for the Commission. It seems necessary for the Commission to take following measures to overcome the challenges:

- a) To take additional initiatives to strengthen coordination, collaboration and relations with the government.

- b) To take further initiatives for timely revision of Human Rights Act and other laws related to human rights;
- c) To provide expert service to provincial and local governments to formulate human rights-friendly laws;
- d) To take a lead in building effective implementation mechanism for Commission's recommendations;
- e) To create an environment for the state to bear responsibilities in accordance with the international conventions to which Nepal is a party;
- f) To initiate planned action to address issues categorized as major challenges of human rights;
- g) To move ahead by formulating strategy in the days ahead in view of the fact that transitional justice mechanisms have failed to be active as anticipated, and
- h) To develop relations with national, regional and international stakeholder agencies in line with the changed context.

It is the Commission's responsibility to make its slogan '*Human Rights in Every Household for All: Basis for Peace and Development*' a success. Human rights, which applies to all without any discrimination irrespective of their nationality, economic status, caste, race and religion has no limitation of border. Equity, justice and human dignity are not possible without fundamental or established human rights values.

Thus, in its capacity as a national or guardian organization, the Commission needs to take lesson from its past experience and move ahead focusing on the Constitution, law and its strategic plan in line with the changed context to expedite its works. The Commission expects cooperation and collaboration from all concerned stakeholders in this regard.