

Aide-Memoire

Nepal's Candidature to the United Nations Human Rights Council for 2018-2020

Background

- Nepal has presented its candidature to the UN Human Rights Council (HRC) for the term 2018 - 2020, the elections for which will be held during the 72nd Session of United Nations General Assembly in New York in 2017.
- Nepal remains fully committed to the promotion and protection of human rights, and has adopted a wide range of legislative, institutional, policy and administrative measures to fulfill its national and international obligations on human rights.
- Nepal believes in inclusive democratic rights of people, and recognizes the interests and aspirations of all segments of society for equitable and just development. Nepal also believes in an integrated approach to democracy, development and human rights, and considers them as essential characteristics of the civilized society. Nepal holds the view that all human rights are universal, indivisible, interdependent, inter-related and mutually-reinforcing, and as such merit balanced treatment and equal emphasis.
- Nepal views that ensuring fair and equitable opportunity to all interested States to serve in the Council enables them to further contribute to the universal promotion of human rights. This is the first time Nepal presents its candidature to the Human Rights Council since its formation in 2006.
- Nepal remains constructively engaged with the relevant UN human rights mechanisms as well as other international partners in the promotion and protection of human rights. Nepal was a member of the then Commission on Human Rights for 1995-2000 and 2004-2006, and served as Chair of the 56th session of the Commission in 2000. Nepal also served as a member of the Bureau / Vice-chair during the 55th session of the Commission on Human Rights in 1999.
- With the near conclusion of historic peace process, Nepal sets a successful example of transformation from armed conflict to peaceful and democratic political order. Promulgation of the new democratic Constitution through the elected Constituent Assembly in September 2015 marks the start of a new era of peace and consolidation of democracy in Nepal. Against the background of these positive developments within the country, Nepal is prepared to take up important responsibilities in the United Nations human rights bodies.

Constructive Engagement at the International Level

- Nepal's commitment to human rights is manifest by the number of international human rights instruments it has subscribed to so far. Nepal is a State party to 24 international human rights

related conventions/protocols, including seven of the nine core international Human Rights instruments. When compared with Nepal's level of development, adherence to such high number of international human rights instruments is extraordinary.

- The seven core Conventions to which we are a State party include International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Rights of the Child (CRC); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and Convention on the Rights of Persons with Disabilities (CRPD).
- Nepal is a party to the Second Optional Protocol to the ICCPR on Abolition of Death Penalty. Nepal has abolished death penalty and this has been firmly institutionalized by the Constitution and law.
- Nepal has ratified 11 ILO conventions including 7 of the 8 fundamental conventions. In 2007, Nepal became a party to ILO Convention No. 169 on Indigenous People.
- In addition, Nepal is also a party to two SAARC Conventions related to human rights, namely- SAARC Convention on Combating and Prevention of Trafficking in Women and Children for Prostitution and SAARC Convention on Promotion of Welfare of Children. Nepal remains engaged in promoting human rights in the regional context as well. Nepal believes that extension of internationally accepted human rights norms and practices in the regional framework would be helpful in generating collective efforts to the cause of human rights promotion.
- Nepal remains constructively engaged with the Office of the High Commissioner for Human Rights (OHCHR). Under an agreement signed in 2005 between Nepal and the OHCHR, the latter established its office in Nepal to monitor the human rights situation in the country. The OHCHR-Nepal office continued to function till 2011. We appreciate the role played by OHCHR-Nepal in monitoring the human rights situation in the country during the difficult period of armed conflict and in providing support and technical assistance to strengthen the capacity of our national human rights institutions.
- Nepal believes in collaborative and cooperative approach in solving problems in the realms of human rights. It takes the Universal Periodic Review (UPR) as an innovative tool of peer review and sharing of best practices in the field of human rights.
- Nepal completed second review of human rights performance under the UPR last year. Out of the total 195 recommendations received during the UPR in November 2015, Nepal accepted 152 recommendations and took note of the remaining. We have taken necessary initiatives with a view to implement those UPR recommendations as well as the observations made by the UN Treaty Bodies while considering Nepal's periodic reports.

- Nepal has good record of meeting reporting obligations under international human rights treaties. Nepal's second periodic report under the ICCPR and third periodic report under the ICESCR were considered by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in March 2014 and November 2014 respectively. Similarly, the combined third to fifth periodic report of Nepal on the Convention on the Rights of the Child and the initial report on the Optional Protocol to the CRC on the involvement of children in armed conflict were considered by the Committee on the Rights of the Child in May 2016. Nepal submitted its initial report on the CRPD in August 2014, which is tentatively scheduled to be considered by the Committee on the Rights of Persons with Disabilities in March-April 2018. Similarly, Nepal has submitted its latest periodic report on CERD in January 2017.

Constitutional Provisions on Human Rights

- The new democratic Constitution of Nepal, promulgated by the elected and inclusive Constituent Assembly, has provided for a comprehensive set of civil, political as well as economic, social and cultural rights. Upholding universal democratic norms, values and principles, the Constitution guarantees civil liberties and fundamental freedom. It ensures inclusive democracy, pluralism, the rule of law, independent judiciary, the democratic values of governance, representative and accountable government, social and economic justice and the universally accepted human rights.
- The Constitution safeguards every right of persons, groups and communities, embracing multi-ethnic, multi-lingual, multi-cultural and diverse geographical specificities. It further aims to create an egalitarian society on the basis of the principles of proportional inclusion and participation, to ensure equitable economic opportunities, shared prosperity and social justice by ending discriminations on the basis of class, ethnicity, region, language, religion and gender. For this, the mixed electoral system, inclusive representation of marginalized and disadvantaged communities in all State organs, positive discrimination and special provisions with regard to rights of women, Dalits, Madheshis, indigenous people, Tharus, Muslims, Persons with Disabilities, and minorities have been guaranteed in the Constitution.
- Similarly, with a view to empowering every section of the society, the Constitution has established and further strengthened various independent constitutional commissions such as the National Human Rights Commission, National Women Commission, National Dalit Commission, National Inclusion Commission, Indigenous People and Nationalities Commission, Madheshi Commission, Tharu Commission, and Muslim Commission. These commissions are empowered to work exclusively for the promotion and protection of the rights, interests and wellbeing of the respective communities and mainstream them in the national political, economic and social development process.
- Preparations are being made to hold democratic election for all level- federal, province and local- to institutionalize the federal democratic system of governance as envisaged in the Constitution.

Achievements and Outcomes in the realm of human rights

- 1. National Human Rights Commission (NHRC):** The National Human Rights Commission (NHRC), established as an independent statutory body in 2000, has now been elevated to a powerful constitutional body with commensurate mandate, competence and independence. The NHRC is fully compliant with the Paris Principles and has been accredited 'A' status by the International Coordinating Committee of National Human Rights Institutions. The NHRC is mandated to ensure respect, promotion and protection of human rights and is competent to launch inquiry and investigation of alleged human rights violations, and can recommend legal or departmental action against human rights violators. It monitors overall human rights situation in the country and can recommend for remedial measures if so required. The NHRC Act, 2012 too fully conforms to the Paris Principles and provides legal foundation for the Commission to function as a powerful protector of human rights.
- 2. Independent and impartial judiciary:** Nepal's independent judiciary remains the guardian of the constitution and custodian of the human rights and freedom enshrined in the constitution. Under all circumstances Nepali judiciary has maintained its independence and impartiality, and has delivered landmark verdicts in favour of protecting fundamental human rights of the people. Those verdicts include, equal property rights to the women, rights of LGBTI, rights of the child, protection against arbitrary detention, protection of environment, check on excesses of the authorities, and so forth.
- 3. Transitional Justice Mechanisms (TJM):** Nepal went through a decade-long (1996-2006) armed conflict, which ended after the signing of the Comprehensive Peace Agreement (CPA) in 2006. Addressing issues related to human rights and humanitarian law during an armed conflict of political nature is a complex task. Nepal has established two separate transitional justice mechanisms (TJM) namely the Truth and Reconciliation Commission and Commission of Investigation on Enforced Disappeared Persons to deal with the outstanding issues. Both the Commissions are working as per their mandates. Accomplishment of the tasks related to transitional justice will add to Nepal's unique peace process.
- 4. Gender Equality and Empowerment of Women:** Nepal is firmly committed to ensuring gender equality, and in this respect, has adopted a rights-based approach to social, economic and political empowerment of women. Laying emphasis on gender equality and gender mainstreaming, the Constitution of Nepal ensures right to lineage and equal rights in the family matters for women. It ensures at least one-third representation of women in the Federal Parliament as well as the Provincial Assemblies and at least 40% representation of women at the local government. Either Speaker or Deputy Speaker of both the houses of parliament must be a woman. The Constitution also ensures that the President and Vice-President of the country represent different sex or community. Current level of representation of women in the Parliament stands impressive. Nepal achieved impressive progress in gender empowerment and maternal and child health

related MGDs reflected in gender parity in schooling, greater share of women in civil service and in the ownership of properties.

Implementation of the Constitution has resulted in an impressive record in empowerment of women rarely seen in the contemporary world. At present, the President, Chief Justice of the Supreme Court of Nepal and the Speaker of the Parliament are all women. Nepal takes immense pride on this achievement.

Similarly, special provisions have been made in the Civil Service Act for women's inclusion at the policy-making level and management of state affairs. Likewise, inclusive representation of women is increasing in Nepal Army and other security institutions. The Constitution has also elevated the National Women Commission as an independent and powerful constitutional body with a mandate to monitor and safeguard the rights and interests of women.

Nepal has been implementing the Beijing Platform for Action and the National Action Plan on CEDAW. As a State party, Nepal has been submitting its periodic reports on the implementation of CEDAW. Through a concerted efforts launched by the Government to safeguard the civil and political as well as economic, social and cultural rights of women by investing on their wellbeing, impressive results have been achieved in reducing maternal and child mortality rates. Significant progress has been achieved in overall health related MDGs. The Government is committed to making further efforts to achieve the SDGs. Nepal has adopted National Action Plan on UNSC Resolutions 1325 and 1820, which are being implemented with active participation of all stakeholders, including those at local levels.

- 5. Diversity management and social justice:** As a country with diverse ethnic and indigenous population, Nepal attaches great importance to the protection of rights of indigenous people. There exists a mosaic of ethnic diversity with a significant portion of population belonging to indigenous groups. The Constitution of Nepal includes far-reaching provisions including proportional inclusion of indigenous people, women and *Dalits*, among others, in all structures of the State. State policies are directed to uplift economically and socially backward indigenous nationalities by making special provisions in education, health, housing, food security and employment. Nepal ratified the Convention on Indigenous and Tribal Peoples (ILO Convention No. 169) in 2007 and remains one of the 22 countries (and the only one in Asia) to have ratified this convention.
- 6. Rights of the Child:** Nepal is a party to the Convention on the Rights of Child (CRC) and has also ratified its two Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. Since the World Summit for Children in 1990, Nepal has given utmost priority to the issue of welfare and protection of children. As per its reporting obligations, Nepal submitted its third to fifth periodic reports on CRC as well as its initial reports on both Optional Protocols, which have already been considered by the Committee on the Rights of the Child.

- 7. Right to Information:** Nepal believes that access to information by its citizens is an essential element in ensuring good governance and enhancing government accountability to people. The Constitution of Nepal has enshrined right to information as one of the fundamental rights. Every Nepali citizen has the right to ask for and obtain information of public importance. Nepal has taken several measures including the enactment of the Right to Information Act in 2007, which established independent National Information Commission, with an aim to protect, promote and ensure the implementation of the right to information and ensure proactive disclosure of activities of the public entities. Growth of a vibrant and independent media and active civil society has further contributed in the enjoyment of right to information.
- 8. Implementation of Human Rights Action Plan:** Nepal has been implementing a comprehensive set of national human rights action plan since 2004. This earnest national effort of protecting and promoting all human rights, including the economic, social and cultural rights has made positive contribution in mainstreaming human rights issues in the national development policies and plans.
- 9. Nepal and UN Peacekeeping Operations:** Nepal fully acknowledges the importance of global peace for sustainable development, inclusive prosperity, and for the enjoyment of all human rights. In line with our commitment and adherence to the UN Charter, Nepal has been regularly participating to the UN peacekeeping operations and stands as one of the largest troop/police contributing countries.

Nepal's contribution to this noble cause of promoting international peace and security under the flag of the United Nations for over 58 years has earned wide international recognition and acclaim. More than 126,000 Nepali peacekeepers have participated in more than 42 different UN Peacekeeping Missions around the world. At the moment, Nepali peacekeepers are serving in all 16 UN Peacekeeping Missions and ranks sixth in terms of troop contributions. While serving under the aegis of the United Nations, 73 Nepali peacekeepers have made the ultimate sacrifice for the cause of international peace and security. Nepal has always responded positively to the call of the United Nations for troop contribution and remains fully committed to the implementation of Kigali Principles on the protection of civilians during the peace keeping operations.

Voluntary Pledges and Commitments:

In the context of the above background and in line with our unflinching commitment to the promotion and protection of Human Rights, Nepal makes the following pledges:

At the National Level, Nepal will:

- Mobilize resources to the best of its capacity towards the effective realization of fundamental rights contained in the Constitution.

- Implement in their true spirit the international and regional human rights instruments to which we are a State party, including the Universal Declaration of Human Rights;
- Pursue with the agenda for inclusive development while accommodating the interests and aspirations of all sections of society, giving particular attention to the pledge of ‘leave no one behind’ made by 2030 Agenda for Sustainable Development;
- Continue to pursue the goal of graduation from the LDC status, and achieve the status of a middle income country by 2030 despite the huge devastation and setback caused by the recent earthquakes;
- Intensify efforts for the implementation of 2030 Agenda for Sustainable Development, Addis Ababa Action Agenda on Financing for Development, Sendai Framework for Disaster Risk Reduction, Paris Agreement on Climate Change and the outcomes of other major UN international conferences and their follow-ups;
- Remain committed to addressing the cases related to violation of human rights occurred during the conflict period, and providing justice to victims, and at the same time, promoting sustainable peace, harmony and reconciliation in society to make peace sustainable and irreversible;
- Ensure the independence and competence of the judiciary for the protection of human rights.
- Foster the growth and diversification of free and competent media which can reach out to all segments of people;
- Create conducive environment for collaborative partnership with the human rights defenders for the promotion and protection of human rights in the country and create enabling environment for the human rights defenders to function independently;
- Work towards further strengthening and consolidating the institutional capacity of the Commission for the Investigation of Abuse of Authority (CIAA), the Election Commission, National Women Commission and other similar constitutional bodies envisioned by the Constitution to ensure good governance, inclusive democracy, human rights and the rule of law;
- Strengthen the central role of the National Human Rights Commission (NHRC) in the protection and promotion of human rights, with the mandate for independent investigation of the cases of human rights violations as well as for overall monitoring of the human rights situation;
- Preserve and further promote the right to freedom of expression; and other freedoms provided for in the Constitution.
- Continue to cooperate and constructively engage with the special procedures and mechanisms of Human Rights Council.
- Strengthen capacity to meet its obligations under the international human rights instruments to which Nepal is a State party through effective implementation of relevant national action plans and programmes;

- Strengthen further the capacity-building and training programmes in the field of the human rights to law enforcement officials, judges, public prosecutors, lawyers, journalists, parliamentarians and the media;
- Implement and adhere to the accepted recommendations of the UPR process;
- Strengthen the collaboration of the Government with the civil society organizations in the promotion and protection of human rights for all;
- Continue the reconstruction and rebuilding activities for early recovery from the devastating impacts of 2015 earthquakes.

At the International Level, Nepal will:

- Contribute to the work of the Human Rights Council for the promotion and protection of human rights and fundamental freedoms in a fair and equitable manner, without distinction of any kind;
- Continue to extend its support to the Office of the United Nations High Commissioner for Human Rights (OHCHR) in fulfilling its mandates;
- Cooperate with all relevant stakeholders to promote and protect human rights universally, inter alia, through dialogue, exchange of expertise, technical cooperation and advice, proceeding from indivisibility and interrelatedness of all human rights, including the right to development;
- Take the approach of partnership and collaboration for the realization of universal human rights;
- Continue its support to UN agencies, programmes and funds that can facilitate the promotion and protection of human rights;
- Participate actively in the global initiatives and discussions on the implementation of the 2030 Agenda for Sustainable Development in the interests of the most needy. Nepal will continue to integrate the 2030 Agenda into its development plan and work towards the realization of the Sustainable Development, including those related to the promotion and protection of human rights.
