

Creative International Forum (CIF)
Human Rights Trend Analysis |Report
April to July 2010

This report provides an overall scenario of human rights situation of the entire Terai region and the ten selected districts of the eastern hills. The report is based on the major events of HR violations, collected during April to June, 2010. Creative International Forum (CIF) has received these information from its five regional programme offices located in Jhapa, Dhankuat, Siraha, Chitwan and Nepalgunj. Relevant information/data have also been obtained from major newspapers published in the same period. Instead of detailing every case of HR violation, the report provides only a general trend of HR situation of the specified regions.

1. Background: Protection and promotion of HR come under the obligations of the State. The positive initiatives taken by the State in this regard offer favourable conditions for its people to enjoy HR and other fundamental rights within its jurisdiction. In case of Nepal, HR protection/promotion has remained one of the important issues. After the Comprehensive Peace Accord (CPA) between the former rebel Maoists and the Government of Nepal (2006), Nepal has reached a post-war peace building phase. At this stage, Nepal has got remarkable historical achievements. Forming ever inclusive Constituent Assembly and ending monarchical form of government, among many others, are the major ones. Yet, there is a lot to be done for lasting peace and stability in Nepal.

With prolonged transition, Nepal is facing multifaceted problems. The state of disorder and chaos can be observed in many parts of Nepal. The cases of killings, abductions, intimidations and extortions have remained ubiquitous with the emergence of the armed groups across Nepal. Political polarization is taking place sharply, resulting in violent conflict among the youth cadres of the political parties. Meanwhile, the hitherto excluded, especially the ethnic groups of Nepal are strongly raising their voices for the recognition of their ethnic identity as well as for ensuring their proper participation in state mechanisms. Especially, the Terai and Eastern regions of Nepal have been facing various forms of agitations organized by the ethnic outfits and groups. On the part of State, the security measures adopted so far have not been very effective. Instead, in many cases, they have negatively contributed to violations of various categories of human rights. As for the Terai region, cases of arbitrary arrests and killings in fake encounters have often occurred. Impunity to HR violation has still remained as a grave challenge. The tasks like punishing HR violators and providing justice to the victims have not been the priority of the State.

On this backdrop, Creative International Forum (CIF) has been regularly monitoring HR situation of Terai and eastern hill region. At hand, the task is a part of ongoing EC funded- programme implemented in partnership of National Peace Campaign (NPC).

2. Sources of information/data: This report is based on the information and data collected from the regional program offices, partner organizations and district focal organizations that CIF and NPC have in the regions. CIF has got its regional program offices in Dhankuta, Jhapa, Siraha, Chitwan and Banke. Besides, NPC and CIF have got 11 partner organizations as well as focal organizations in every program district. Regional program coordinators coordinate to collect, compile information of their respective regions.

3. Process of preparing the report: The report contains field based information and data from the media both. The district focal organizations and partner organizations fill out the forms prepared by CIF. The forms consist of the fields for different categories of HR violations. After the forms are collected in the regional offices, they get forwarded to the central office. The central office coordinates to compile the reports of all the regions. Likewise, the news reports from the national daily have also been referred to while compiling this report.

By nature, this report is an attempt to provide a glimpse of the overall HR scenario of Nepal. Thus, the focus is given to highlight the trends of HR violations qualitatively rather than detailing the individual cases.

3. Category-wise analysis of HR situation:

3.1. Violations of Civil and Political rights: Nepal is the State party to **Covenant on Civil and Political rights**. Nepal's Interim constitution has incorporated a broad range of civil and political rights under its fundamental rights' section. As far as implementation status of these provisions are concerned, favourable conditions exist in Nepal. The State has allowed peaceful demonstrations. Citizen's rights to vote and to be elected have not been curtailed. Media freedom and other forms of freedom of expression/assembly prevail in Nepal.

Despite this, the activities of state security forces and agitating groups have prevented people from enjoying their rights. In this period, protest programmes of the political parties and strikes mainly called on by the Maoist Party hugely created obstacles for the people to enjoy their fundamental freedoms. The violent activities of the armed groups like abductions, extortions and strikes have been posing threats to right to life, freedom of mobility and expression. Risks involved with HR defenders, journalists and business people have not come down as they are deliberately targeted. The armed groups and political party cadres have issued threats against businessmen and common people. Despite the growing anarchy, the state security forces have largely failed to fulfill their obligations to protect HR from being abused by the third party. On the contrary, their activities have also contributed to growing violations of civil and political rights in the Terai and eastern hills. They have allegedly encouraged fake encounters, arbitrary arrests and detentions in the mentioned regions. The data on cases of HR violations covered in the media and collected from the field have been presented in the table below:

A woman aged 35 from Bramangorchari VDC, Siraha has been severely beaten by a group of five policemen in Lahan. As told by the victim, the policemen forced her to evacuate the place near the highway where she used to sell vegetables. Disputes occurred when she did not follow their order. Immediately, the policemen started beating her. For a living, Masu Khatun had been selling fruits and vegetables keeping them in Hand Puller (Carts). Victim Masum Khatun' attempt to file the complaint at the police have failed as the Ward level police office has refused to do so. The victim has come into the contact of HR networks/local activists after she was denied justice. (Report received from Lahan Cluster: May, 2010)

Table: 1 Violations of civil and political rights

SN	Categories of HR violations	Total cases						Remarks
		NP	CT	LH	DK	JP	Total	
1.	Right to life	-	2	4	-		6	Killing

2.	Right to personal security	24	11	1	-	-	36	Kidnapping, threats,
3.	Right to fair trial	3	-	-	-	-	3	
4.	Right to prisoners	2			2		4	
5.	Right to political participation	-	-	-	-	-	-	
6.	Right to assembly & expression	-	-	-	-	-	-	
7.	Right to mobility							
	Total	33	51	22	1	17	124	

NP: Nepalgunj; CT: Chitawan; LH: Lahan; DK: Dhankuta; JP: Jhapa

As listed in Table-1, a total of 6 individuals were deprived of their rights to life in the Terai region and eastern hills. More killings took place in Lahan cluster, which covers the districts of the central and eastern Terai- the heartland for the armed activities. There were also remarkably high number of cases relating to threat to personal security. Such threat is maximum in Nepalgunj cluster. The seven day-nationwide general strikes by the Maoist party during May led to the obstruction of free mobility of people, circulation of newspapers and supply of essentials goods to the common people. Despite this, crucial rights of people like right to political participation and freedom of expressions were not curtailed by the State.

A total of seven Maoist cadres were injured when they clashed with the security forces on 2 May 2010 in Chitawan district. The clash occurred as the security forces intervened with the activities of the Maoist cadres. In an attempt to impose the general strike, the Maoist supporters were trying to obstruct the examination planned at Bharatpur Higher Secondary School. The police administration used excessive forces- like baton charges, tear gas and plastic bullet. (Report from Chitawan Cluster; 4 May)

3.2. Violations of Economic, Social and Cultural rights: Nepal is the State party to Covenant on Economic, Social and Cultural rights. However, Nepal is yet to create conditions for its people to exercise these rights. Poverty has affected nearly a two third of the country population. People are deprived of their basic needs like food, health, housing and education. Corruption prevails at all the levels of the government mechanisms and political layers. Thus, funds allocated for developmental activities and allowances under social security plans have highly been misused.

Right to work: Nepal has, in many ways, failed to ensure the right to work to its citizens. Unemployment rate is increasing alarmingly high. The prevalence of the conflict, political interference, lack of security have pushed the factories into a state of collapse. Every day, thousands of youths are forced to leave for other countries in search of jobs. Golf countries, Malaysia and India are job destinations for the

The workers at **Tea Development Corporation** in various Tea states in Ilam have not been getting minimum wages determined by the government. The government had declared daily wages to be Rs. 120 effective from 1 Paush, 2066. The Corporation has just been providing RS 95 in Kanyan Tea State, Rs 90 in Soktim and 82 in Chilingkot. Despite continuous demand and pressure from the workers, no steps have been taken to provide them with the agreed wages. A total of 1200 locals are working at various Tea State under Nepal Tea Development Corporation. (Nagarik Daily, 12 April, 2010)

unemployed, where face different forms of exploitations. Media news covers the cases of exploitation, degrading treatment, physical abuses and sexual abuses against women migrant workers. The unemployed youths are highly vulnerable to manipulation in illegal activities by different groups. Because of the lack of employment opportunities, the youths are attracted to the activities of the armed groups. Likewise, the industrial sectors continuously suffer from political strikes, padlocking, labor strikes, extortion and so on. The workers are not receiving their minimum wages as per the international provisions and labour laws.

Right to food: The Nepalese State has still got a lot to do to ensure right to food for its people. Especially, the hilly regions of Nepal have frequently suffered from the shortage of food. Low productivity, lack of proper transportation and timely supply of the food stuffs, natural calamities have contributed to the food deficit in the western and far-western hills. Consequently, cases of children dying of malnutrition/under-nutrition get reported in the press.

Right to health: The common people especially those living in the rural areas are still deprived of basic health facilities. Most of the hospitals are centred in the city areas. Doctors choose not to go to the health centres located in rural parts. Health centres in such places lack basic infrastructure, medicine, equipments and manpower. As a result, many women are dying not getting prenatal care. Children, the poor and excluded groups have suffered as they have no access to health services. Just a point in case, nutrition promotion centre Kapilbastu has concluded on June 2010 that 75 % children from Tilaurakot, Gotihawa, Pakadi and Dohani have been suffering from malnutrition. Even in the city areas, the services delivered by the government managed hospitals are not of proper quality. Thus, the private clinics/hospitals have become the alternatives. However, they are affordable to the wealthy people only. The political interference and strikes called on by the doctors have also affected the services of the hospitals.

Right to education: Nepal has placed education sector in its high priority when national plans and policies are considered. Complying with MGD Goals, Nepal has set a goal to provide primary education to all by 2015. In order for this, efforts are being taken to increase the enrolment rate, increase enrollment of the children from marginalized communities, building capacity of school teachers and management committees for ensuring quality education. However, a number of challenges persist as far as ensuring the right to education is concerned. High drop out rates, class repetition and low access of children from Dalits, Janajati communities have still remained as great challenges in Nepal. Against the government plan to provide free education up to high school levels, students are charged fees under different titles. This has directly affected the children from the poor and the marginalized communities.

Student wing, closer to the Maoist party (All Nepal Student Union, Revolutionary) has mobilized thousands of its cadres to different parts of Kathmandu to impose the indefinite education strike called on by the organization. The organization has accused the private school owners of hiking fees excessively, charging students under unnecessary titles and paying low salary to the teachers. The students had padlocked the account sections of the private schools in the earlier week. The founders of the private schools have said they are not going to open the schools risking their students, teachers and physical property of the schools. (Naya Patrika, 25 April)

Another growing problem is the prevalence of the dual education system. There are two categories of schools in Nepal: the government and private schools. The government schools are only the choice of the children in rural areas and those from the poor families whereas the private schools are mushrooming in the city areas serving for the children from well to do families. Although there is similarity in the structures/layers of education, disparities prevail in the kinds of courses taught, physical infrastructure.

Binsha Tiruwa, a Dalit student studying at Janaki Kanya Secondary School in Kanchanpur were not allowed to appear for SLC board exam explaining that she did not pay the monthly fees at the school. The school principal Sakti Bhandari did not provide the admit card to Bisha, which made her give up the exam. (Nepalgunj cluster, June)

3.3. Rights to non-discrimination or equal treatment: Nepal has expressed its commitments to end all forms of discriminations by ratifying related international provisions and reforming national laws. Despite this, caste and gender based discrimination still prevail in many parts of the country. Especially in the rural areas, the so called Dalits (untouchable) are banned from using public taps, entering temples and attending other kinds of social functions.

Impunity against HR violations exists as such cases are either dismissed at the community level, or negotiations are made in the presence of police administration. The alleged culprits are rarely booked for legal action although there are legal provisions for criminalizing such acts in

Gogali Rajak Saphi- resident of Prasvani VDC-1 Saptari- along with his 6 family members have been ousted from their village on 16 June 2010. Rajak was accused of marrying a girl from the so called upper caste family. A year ago, Gogali had married a daughter of Harku Chaudhary as per the related national laws on marriage. Girl's side and local people frequently issued threats, beat the family members according to the victim. After the marriage, Gogali and his wife were living in India for the fears. When they returned from India, the local residents mercilessly beat and forced them to leave the village. (Case obtained from Lahan, Office)

Nepal. In this period, a total of 8 cases concerning caste based discrimination have been collected. The majority incidences occurred in the Siraha cluster.

3.4. Rights against torture/torture in detention centres: The detention centres in many parts of Nepal lack basic facilities for the prisoners. For sanitation, proper drinking water, toilet facilities are lacking. The cells are over-crowded with a large number of prisoners. Provisions of regular health check-up are not followed. Cases of fighting among the prisoners and beating from jailors are often reported in the media.

3.5. Child rights: Ensuring the rights of children has remained quite challenging in Nepal. A lot of progresses can be seen at the policy level like ratifying related international provisions (CRC and ILO conventions) and reforming child rights related laws. Despite strong legal commitments, there has not been a significant change on status of child rights in Nepal. Still, a number of children from

The Communist Party of Nepal (CPN) Maoists has involved a number of youths and children in its training programme and demonstrations in course of indefinite general strike imposed during the first week of May, 2010. The youths and children were provided trainings on how to use batons and light home made weapons (Khukuri). Around 2000 persons were participated in the trainings that took place in various parts of Saptari and Siraha districts. The children were not allowed to talk with the journalists and local HR activists.

marginalized communities lack access to education. Considerable number of children are involved in worst forms of labour. Frequent closures of schools in this period have prevented school children from attending their schools. Political parties involved children in political rallies and demonstrations.

3.6. Rights of women: Cases of domestic violence, charges of practicing witchcraft, and rape against women took place in this period as well. The concerned bodies of the state like local police offices have allegedly refused to register the cases, but instead they have got a trend of dismissing the cases through mediation.

Conclusions: From the prospective of protecting human rights and for establishing peace, this period could not remain very much satisfactory. The cases of violations of different categories of the rights have continued to occur in this period too. Non-state actors like armed groups and political party cadres have been mainly involved in abusing the rights. In case of the Terai region, extra judicial killings and arbitrary arrests occurred with involvement of the state security forces. Women, children and rural community people frequently became the targets of the perpetrators.