

ADVANCE QUESTIONS TO NEPAL

CANADA

Impunity for past and ongoing abuses

- Addressing abuses committed by all sides during the decade-long conflict and post conflict period in Nepal is an important element of transitional justice. What steps is Nepal taking to address conflict and post conflict abuses and violations related impunity?
- What steps has or will be taking the Government of Nepal to implement all recommendations that have been put forward by the National Human Rights Commission regarding prosecutions and/or departmental actions against alleged human rights violators?
- Canada would be grateful for an update on the Government of Nepal's progress towards establishing a Truth and Reconciliation Commission and a Commission of Inquiry into Disappearances.

National Human Rights Commission

- The National Human Rights Commission of Nepal (NHRC) will undergo peer review in March 2010. What measures is the Government of Nepal taking to ensure that the NHRC's structure and function are in line with Paris Principles, particularly with regards to independence and autonomy?
- It has been noted that the majority of cases referred to NHRC by OHCHR-Nepal have not yet been investigated. Canada would be grateful if the Government of Nepal would share with us its plans to address these outstanding cases.

Social Discrimination

- As a party to the International Convention on the Elimination of All Forms of Racial Discrimination, Nepal is required to prohibit discrimination based on descent, which includes caste-based discrimination. Does the Government of Nepal expect to pass the Caste-based Discrimination and Untouchability Crime Elimination and Punishment Act in 2011? Will this act provide comprehensive definitions of caste-based discrimination and untouchability; and classify offences by order of severity, listing commensurate punishments?
- What measures is the Government of Nepal taking to ensure that police are provided with clear instructions, and are held accountable, regarding their responsibility to report, investigate, and protect victims of social discrimination?

- How is the Government of Nepal addressing gender-based discrimination both in law and in practice, and what steps is the government taking specifically to address human trafficking?

Criminalization of Torture

- What efforts are being undertaken to execute the Supreme Court's 2007 judgement to criminalize torture in Nepal? When does the Government of Nepal expect this legislation will be finalized?

Children Rights and Child Labour

- What measures is the Government of Nepal taking to prevent Employment of children in abusive and hazardous environments? Is the Government of Nepal working on legislation to prevent, register, control and monitor child labour in Nepal?
- What steps is the Government of Nepal undertaking to expedite endorsement of long awaited child policy legislation, including the Child Rights Act, Education Regulation, Child Protection Policy, and minimum standards for child care homes?

CZECH REPUBLIC

- In July 2010 the OHCHR issued a report "Investigating Allegations of Extra-Judicial Killings in the Terai" containing a number of recommendations concerning measures that are to be taken to address allegations of extra-judicial killings in order to fight impunity. What steps has the Government of Nepal taken in order to implement OHCHR recommendations, *inter alia*, to fully investigate all allegations of the use of extra-judicial killings in the context of the current Special Security Plan, as well as past and future security, establish external oversight mechanisms, such as an independent police complaints commission or a special investigative unit to investigate and prosecute crimes allegedly committed by state actors; or adopt measures to support and protect witnesses as well as victims and their family members?
- While we appreciate the fact that the Government priorities include combat caste-based discrimination and legislation adopted in this regard, we would like to ask to what extent the local authorities in rural and remote areas are involved in implementation of this policy? How cases of caste-based discriminations are reported, investigated and perpetrators prosecuted? How the victims of such violence are compensated? What remedies does the law prescribe for such cases? How the public education concerning prohibition of caste-based discrimination is ensured?
- According to the OHCHR Report of February 5th, 2010, journalists have faced regular threats from armed groups and political parties for filing reports about their activities, and a female radio journalist in Janakpur was murdered in January 2009. Women human rights defenders and the group of defenders

representing sexual minorities are particularly at risk. Women human rights defenders face additional threats from their communities and families in relation to their work in defence of women's rights, which is often viewed as a challenge to the existing social order. At the conclusion of her visit to Nepal in March 2009 the High Commissioner stated that the Government should take concrete steps to ensure the security of human rights defenders, including journalists, who are the first line in the defence of the human rights. What steps has the Government of Nepal taken in order to protect human rights defenders and independent journalists?

- Failure to act on human rights abuses undermines respect for the rule of law. We noted the lack of progress in the setting up of the Truth and Reconciliation Commission and the Commission on the Inquiry on Disappearances. What steps is the Government of Nepal prepared to take in this field?

DENMARK

- We attach great importance to ending impunity and bringing to account those on both sides in the conflict who perpetrated human rights violations. What is the timeline for establishing the Truth and Reconciliation Commission and the Disappearances Commission, and how will the government ensure independence from political interference?
- Credible investigation of alleged human rights violations of security forces is an important part of strengthening the rule of law. How will the Government of Nepal ensure that allegations of human rights violations are investigated and perpetrators brought to account?
- Nepal has made a number of commitments to criminalize torture, ratifying the Convention against torture and including it in the Interim Constitution. Nevertheless, torture remains widespread, especially in police custody. In December 2007, the Supreme Court (SC) made a judgment in which it ordered the Government of Nepal to criminalize torture. However, Nepal has yet to introduce legislation that criminalizes torture. What are the Government's plans for presenting a bill complying with international standards on the criminalization of torture, and when does Nepal intend to adhere to Optional Protocol to the Convention against Torture?
- Discrimination and exclusion based on caste, gender and ethnicity remains widespread at all levels in Nepali society. The submission of the draft Caste-based Discrimination and Untouchability Crime Elimination and Punishment Act to the Legislature-Parliament provides an opportunity to improve the legislative framework and fight discriminatory practices. What is the government's plan on this bill and other related issues such as the National Dalit Rights Commission Bill?
- The National Human Rights Commission (NHRC) in Nepal will soon be subject to an international peer review, and risks a downgrading if firm

measures are not taken to strengthen its position. How will the Government ensure the continued independence and autonomy of the NHRC?

- Nepal declared 2010 the year to end gender-based violence. What will Nepal do to continue the fight against the widespread violence, sexual and otherwise, and discrimination against women and children? Specifically to ensure the rights of women and children in terms of access to citizenship registration, security from violence (especially sexual), forced trafficking and ownership of land for women.

GERMANY

- What is Nepal doing to guarantee as soon as possible the establishment of the Truth and Reconciliation Commission, the Disappearances Commission and the High Level Monitoring Commission as agreed upon in the Comprehensive Peace Accord 2006 and in the Interim Constitution 2007? What are the obstacles for the Government of Nepal to establish these bodies and how shall the judiciary independence be safeguarded?

IRELAND

- **National Human Rights Commission of Nepal**

Ireland welcomes the agreement between the Government of Nepal and the UN Office of the High Commissioner for Human Rights (OHCHR) to renew the mandate of the OHCHR's country office in Kathmandu for a further twelve months. What arrangements are in place to ensure the complete independence and effective functioning of the National Human Rights Commission of Nepal and to facilitate co-operation between the Commission and the UN Office of the High Commissioner for Human Rights?

- **Impunity**

Ireland remains concerned that the perpetrators of human rights violations are not being fully held to account for their actions. What steps are being taken by the Government of Nepal to investigate allegations of human rights abuses and to bring those responsible to justice?

LATVIA

- According to the information by the Office of the UN High Commissioner for Human Rights, 73 countries from different regions of the world have issued standing invitations to all special procedures of the Human Rights Council. Considering previous cooperation with special procedures mandate holders and despite several still pending requests by special rapporteurs to visit Nepal - would your country consider extending a standing invitation to all special procedures of the Human Rights Council in the future?

MALDIVES

- The national report of Nepal notes that the Domestic Violence (Crime and Punishment) Act was enacted in 2009. Could Nepal explain the difficulties it faces in the strict implementation of the Act?
- Has Nepal considered strengthening the Act in order to shift the legislation's focus from mediation to criminal prosecution of perpetrators of domestic violence?
- What specific steps is the Government of Nepal taking to ensure the rights of children in detention?
- Could the Delegation of Nepal provide information on the measures taken by it to safeguard the rights of the girl child?
- The Maldives' would be grateful if Nepal would provide information on the extent to which civil society was consulted in the compilation of the national report.

NORWAY

- What will the Government of Nepal do to more effectively follow up on the recommendations of the NHRC and to strengthen its role as an independent institution?
- What steps will the Government of Nepal take to address the current state of impunity, and in particular to protect the police and justice system from political interference?
- What will the Government of Nepal do to ensure that the suspects accused of serious and credible human rights abuse during the conflict are handed over to the Police for proper investigations?
- How can the Government of Nepal make sure that institutions in the fight against gender and caste based discrimination such as the National Women's Commission and the National Dalitt Commission become more effective?
- In a ruling from 2007 the Supreme Court states that lesbian, gay, bisexual, transgender or intersex persons (LGBTI) shall be protected against discrimination. How will the government of Nepal further implement the Supreme Court ruling and effectively protect and ensure the rights of sexual and gender minorities?
- What will the Government of Nepal do to ensure primary education to be universal, free and compulsory for all children, without any kind of discrimination based on economic status, gender, caste, geographical location and disabilities?
- Is the Government of Nepal planning to adopt a new Child Rights Bill and develop a comprehensive Child Policy to enhance the rights of children?

SWEDEN

- Sweden would like to ask the Government of Nepal what measures it has undertaken to protect its population from enforced disappearances?
- What further steps will be taken to end impunity for these crimes?
- Could the Government please elaborate on what is being done to give compensation to the families of the people who were forcibly disappeared?
- Sweden would like to ask the Government of Nepal what measures it is taking, in accordance with its international obligations, to prevent and address arbitrary arrests?
- What steps are taken to ensure that impunity for acts of violence committed by the authorities is eradicated?
- Sweden would like to ask the Government of Nepal what measures it is undertaking to ensure the equal enjoyment of human rights by all its people and to combat gender and ethnic discrimination?
- What measures are being taken to strengthen its legislation and implement existing legislation to promote and protect the Dalit population in particular?

SWITZERLAND

- **Impunity and Rule of Law**
What is the timetable for the establishment of the Truth and Reconciliation Commission and the Disappearances Commission, as pledged in the 2006 Comprehensive Peace Accord? How will the Government ensure that the legislation on disappearances fully conforms to international standards?
- **ICC**
Does the Government of Nepal intend to sign the Rome Statute of the International Criminal Court?
- **NHRC**
Regarding the creation of a National Human Rights Commission, what measures is the Government taking in order to ensure the implementation of the International Coordination Committee of National Human Rights Institution's recommendations, including on the adoption of legislation in full compliance with the Paris Principles and on the provision of adequate funding and financial autonomy for the commission?

- **Violence against women**
What steps does the Government take to address the issue of violence against women and to ensure that victims get reparations?
- **Discrimination**
What is the implementation status of the Caste-based Discrimination and Untouchability Crime Elimination and Punishment Act and other related instruments such as the National Dalit Rights Commission Bill (NDRC)?
- **Refugees**
What measures does the government plan to take, in order to ensure that the status of Tibetan refugees in Nepal is recognized according to international standards? Is the accession to the Convention relating to the Status of Refugees planned?

UNITED KINGDOM

- We should be grateful if you would provide information on the extent to which civil society organisations in Nepal were consulted in the preparation of your national report and how you propose to engage them in the follow-up process?
- The UK welcomes the steps taken to establish draft bills for the Truth and Reconciliation Commission and Disappearances Commission as pledged in the 2006 Comprehensive Peace Accord. What is the timetable for the establishment of these bodies now and how does the Government of Nepal believe their independence from political interference can be guaranteed?
- The Government's decision to upgrade the status of Nepal's national human rights commission to a constitutional body was very positive. What steps are now proposed to safeguard the independence of the National Human Rights Commission (NHRC) in Nepal in line with the Paris Principles and to ensure it is adequately resourced? How is the Government following up on the recommendations of the International Coordinating Committee? Could you share with us how the Government is taking forward prosecutions of the cases referred to it by the NHRC?
- What steps is the Government taking to tackle impunity, reduce political interference, and promote judicial independence including compliance with judicial orders and adherence to the rule of law?
- We welcome Nepal's signature of the Convention Against Torture and the steps taken in the draft Criminal Code and draft Criminal Procedure Code to strengthen the prohibition and prevention of torture. Could you please share with us what consultations the Government of Nepal has taken on these draft provisions relating to torture and what steps are being taken to remove the limitation period for complaints of torture; ensure the penalty for torture is in line with other serious offences and to include a definition of torture in the Code in line with article 1 of the UN Convention against Torture?

- Please could you elaborate on the measures being taken to investigate reports of extra judicial killings (OHCHR-N's report of October 2010) and as recommended in the UN's report to establish a task force within the Nepal Police to investigate these allegations? What is the government's position on establishing an independent complaints commission capable of investigating complaints made against the police and other security forces?
- Could you please explain what steps the Government is taking to protect HRDs and journalists from threats, intimidation and illegal acts/violence and ensure their right to free movement, peaceful assembly and free expression?
- Could you share with us how the Government of Nepal will manage the follow-up to the Universal Periodic Review, and, who will be responsible for oversight of implementation, monitoring and reporting?