

CONCLUSION & RECOMMENDATIONS OF THE NATIONAL SEMINAR

The two day national seminar discussed several aspects relating to promotion, protection, enforcement and development of human rights. Opinions of some of the participants were declaratory or general while other centred on the provisions envisaged in the draft bill the text of which was supplied to the participants for discussion. General recommendations based on the statements expressed by the participants in the seminar are summarised as follows—

- a) The independence of the commission should be guaranteed in the strictest term. It should be constituted by an act of parliament. The appointment and removal process of the members of the commission are crucial in this regard.
- b) Appointment of the members of the commission should be based on the recommendations of a body comprising head of the executive, opposition parties and so on. The executive should not reserve the right of removing the members of the commission.
- c) The jurisdiction of the commission should be investigatory. The fundamental rights jurisdiction of the judiciary should not be eroded on account of the establishment of the commission.
- d) Human Rights commission should provided better access and effective remedies through less formal, uncomplicated procedures to victims of human rights violation.
- e) The commission should have an independent unit to investigate human rights violations and the police should not be always left to investigate into human rights abuses.

SPECIFIC RECOMMENDATIONS OF THE NATIONAL SEMINAR

**on Human Rights Commission in Nepal
Seminar Proceedings Report, Dec 1995**

Participants offered specific suggestions for incorporation in the draft bill supplied to them for comments.

The relevant suggestions incorporated in the draft bill are as follows—

1. In the preamble words as 'independent and competent' human rights commission should be inserted.
2. In the definition provided in section (2) enforceable by the court in Nepal should be deleted.
3. Section 3(b) of the draft regarding the composition of the commission should be ammended as follows—
 - (a) One member from among the persons having rendered distinguished service in the field of constitutional and human rights law.
 - (b) One member from among the persons having rendered distinguished service in the area of social service and human rights.
 - (d) One member from among the persons having contributed significantly in different walks of national life.
4. Replace section 3(e) instead of section 3(a).
5. Amend the section 6(d) as provided

In case a proposal tabled by the decision of the two-third of the members of the foreign and human rights committee of the House of Representatives stating that a member of the commission is not desirable to continue in his office for reasons of incapacity or misdemeanour is passed by the House of Representative at the presence of its two-third members and approved by His Majesty.

Provided that, the member thus indicted shall be given reasonable opportunity to defend himself in the Foreign and Human Rights Committee of the House of Representatives.

6. Insert: as prescribed by the law enacted by the Parliament.
7. Insert: Promotion of human rights culture in the section 9.
8. Replace: Section 9(L) instead of (e)
9. Insert: Matter subjudice in the Military tributral in section 10(a)
10. Insert the following in Section 10.

Notwithstanding the provisions the final authority of authentication shall vest in the commission

11. Replace subsection (1) of the section 15 as follows—
 - i. The required expenses for the activities of the commission shall be borne by the consolidated fund.
12. Add section 20 to insert the following—

Section 20: Provision with respect to adherence of the decisions of the commission.

1. All shall abide by the order and decision of the commission.
2. In case the order and decision prusuant to sub-section of the commission disregarded (2) it shall initiate action on the charge of the contempt and impose fine upto five thousand rupees, imprisonment upto one month or both.
3. Appeal shall lie in the Supreme Court within 35 days against the decision or order of the commission.

All the above relevant suggestions have been considered and incorporated in the draft.