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**European Initiative for Democracy and Human Rights**

*First Annual Interim Narrative Report*

**Project title:** Initiative to combat against torture and Impunity

**Contract no:** Contract DDH/2006/126-099

**Project duration:** January 2007 to December 2008

**Duration covered by the report:** January 2007 to December 2007

Submitted by:

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**ANNEX VI  
INTERIM NARRATIVE REPORT**

**1. Description**

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**1.1. Name of beneficiary of grant contract:** FOHRID Human Rights and Democratic Forum

**1.2. Name and title of the Contact person:** Advocate Raj Kumar Siwakoti, Secretary General

**1.3. Name of partners in the Action:** N/A

**1.4. Title of the Action:** Initiative to combat against torture and impunity

**1.5. Contract number:** Contract DDH/2006/126-099

**1.6. Start date and end date of the reporting period:** January – December 2007

**1.7. Target country (ies) or region(s):** Nepal, 5 development regions (Biratnagar, Kathmandu, Pokhara, Nepalganj, Dhangadhi)

**1.8. Final beneficiaries &/or target groups (if different) (including numbers of women and men):**

**Political level:**

Members of Parliament / Constituent Assembly, political parties including CPN-Maoist and their sister organizations.

**Government level:**

Ministry of Home Affairs, Foreign Ministry, Ministry of Law, Justice and Parliamentary Affairs, Parliament Secretariat, Speaker and their officials, Law Reform Commission, judiciary, Office of the Attorney General, policy makers, National Human Rights Commission, law enforcing agencies, Nepal Army, Nepal Police, Armed Police Force and their human rights cells.

**Non-government level:**

Nepal Bar Association, lawyers, journalists, organizations of women, dalits and ethnic communities, trade unions, human rights organizations, student leaders and occupational groups.

**Final beneficiaries:** Nepalese society.

**Estimated number:**

Representation from political and government level: 500 persons.

Representation from non-government level: 1000 persons (70 organizations).

**1.9. Country (ies) in which the activities take place (if different from 1.7):**

N/A

## **2. Assessment of implementation of Action activities**

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### **2.1. Activities and results**

#### **Activity 1: Campaign and advocacy**

Campaign and advocacy is the major component of this project. The activities concluded under this and the result produced is summed up as follows:

##### **1.1 Public meeting and demonstration:**

Two events of public hearing and mass demonstration completed. Both events of this activity were organized at Maitighar Mandala, Kathmandu with stakeholders from human rights community, civil society and general public. Main slogan of the first event was "Public demonstration demanding ratification of the Rome Statute", whereas the second event was organized with the slogan "Ratification of Rome Statute 1998 of the ICC and Optional Protocol 2002 of CAT". Altogether, 9 organizations jointly organized the first one and 41 organizations participated in the second event. Representatives of political parties, senior human rights activists and members from civil society addressed the mass demonstration and public meeting. On the occasion, a weeklong program named "ICC Week" was organized from 1 – 7 July 2007. Activities such as pamphleting, street drama, submission of memoranda to Prime Minister, Speaker, Foreign Minister, political parties and interaction were conducted in collaboration with different human rights organizations to create pressure for the ratification of Rome Statute 1998 of ICC and Optional Protocol of CAT 2002. Overall coordination, preparation of memoranda and Secretariat of ICC Week program was shouldered by FOHRID.

Prime Minister, Minister for Foreign Affairs and senior political leaders expressed their commitment to immediately ratify the Rome Statute of the ICC during the ICC Week. The leaders were reminded by the delegation about the motion adopted unanimously by the House of Representatives on 15 July 2006 directing the government to accede to the Rome Statute immediately. However, the government has not acceded to the Rome Statute till now.

##### **1.2 Interaction with target groups:**

An interaction on "A campaign against impunity: ratification of Rome Statute 1998" was held as the first part of the first event of this activity. Mr. Mahendra Pande, Chief Whip of CPN-UML and Mr. Ananda Dhungana, Chief Whip of Nepali Congress expressed their commitment to raise the issue in their party and the parliament. Both of them were of the opinion that the government should ratify the Rome Statute of ICC without any delay to end impunity and guarantee rule of law in the country.

Likewise, an interaction on "Accession to Rome Statute: Need of a law to control torture and impunity" was held as second event of first part. This interaction was held with the active involvement of the political party leaders, Members of the Legislature-Parliament and law enforcing agencies. Speaking to the interaction program, Mr. Yagya Murti Banjade, Attorney General of the Government of Nepal opined that the accession to the Rome Statute will strengthen criminal justice system in Nepal. Mr. Tara Samyangya, President of Parliamentary Committee for Human

Rights said that the government should accede to the Rome Statute to control impunity in the country. Members of the Legislature-Parliament, present on the occasion, expressed their commitment to raise voice in the parliament for immediate accession into the Rome Statute of the ICC. A discussion paper entitled "Accession of Nepal into the Rome Statute of ICC: Why and how much necessary" was presented on the occasion. The Resource Book entitled "An Introduction to the International Criminal Court" was unveiled during the program.

### **1.3 Lobbying vis a vis legislative organs:**

Till now, 4 rounds of lobbying have been concluded. This has focused the ratification of Rome Statute 1998 of ICC and Optional Protocol 2002 of CAT. The first round was held with the Speaker of the Legislature-Parliament, second round with the Prime Minister and Foreign Minister, third round with the 8 ruling political parties and fourth round with the Members of the Legislature-Parliament. Separate memoranda were submitted during each round of lobbying. Prime Minister, Speaker, Foreign Minister and leaders of political parties expressed their commitment with the lobbying delegation that they will make their best efforts to ratify Rome Statute of ICC and Optional Protocol of CAT. Lobbying was undertaken at the time of mass demonstration and public hearing conducted to implement ICC Week program. These programs held as complementary to each other made the campaign against impunity effective.

### **Activity 2: Preparation of Resource Book on Rome Statute of ICC:**

A Resource Book on the International Criminal Court has been prepared and printed in Nepali language taking "An Introduction to the International Criminal Court" authored by William A. Schabas as major reference. Formal consent was received from the author and the publisher Cambridge University, UK for citation and translation from the book. Other relevant publications were also consulted. Total 2500 copies of the book has been printed and being disseminated among stakeholders. The Resource Book is divided into following sections:

1. **Introduction:** Law of war: Regulation of offence, International justice: Responsibility and expectation of justice
2. **Creation of the Court:** Including The Nuremberg and Tokyo trials, International Law Commission, The ad hoc tribunals, Drafting of the ICC Status
3. **Crimes prosecuted by the Court:** Including Genocide, Crimes against humanity, War crimes, Other offences
4. **Jurisdiction and admissibility:** Subject matter (*ratione materiae*) jurisdiction, Temporal (*ratione temporis*) Jurisdiction, Bases of jurisdiction, Territorial (*ratione loci*) jurisdiction, Personal (*ratione personae*) jurisdiction, Security Council veto of prosecution, Admissibility
5. **General principle of criminal law:** Source of law, Interpreting the Rome Statute, Presumption of innocence, Rights of the accused, Individual criminal responsibility, Responsibility of commercial and other superiors, Mens rea or mental element, Defences, Statutory limitation

6. **Investigation and pre-trial procedure:** Initiation of prosecution, Rulings on jurisdiction and admissibility, Investigation, Arrest and surrender, Appearance before the Court and interim release, Confirmation hearing
7. **Trial and appeal:** Evidence, Sentencing procedure, Appeal and revision,
8. **Punishment and the rights of victims:** Available penalties, Enforcement, Victims of crimes and their concerns
9. **Structure and administration of the court:** The judges of the court, Office of the prosecutor, The Registry, Ethical matters, Defence bar, Languages, Assembly of states Parties, Funding, Settlement of disputes, Reservations, Amendment, Signature, ratification, approval and accession

Though estimated to be around 400 pages long, the Resource Book is now 220 pages long. Length of the book was reduced because the Nepali translation of the Rome Statute was already published in another book entitled "International Instruments Developed against Impunity" published under the same project.

### **Activity 3: Draft legislation / recommendation:**

This activity aimed to recommend a new Act to replace the existing Compensation Relating to Torture Act 1996 is in progress. Compensation Relating to Torture Act was reviewed for the purpose of preparing the new draft. Agenda for alterations were determined. This activity is interrelated with consultation meeting. The first draft legislation was prepared at the end of Semester II of Year I. One regional level consultation meeting has been accomplished based on the draft. The draft legislation has been updated accommodating the suggestions received through the meetings. Now, written suggestions are being collected from expert stakeholders on the latest draft. It will be forwarded to the international community for their suggestion and feedback after its translation into English language by the end of January 2008. The draft legislation is based on the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985 and CAT.

### **3.1 Consultation meeting:**

So far, 4 rounds of consultation meeting have been concluded. The topics of these meetings were as follows:

- Consultation meeting on Torture Compensation Act 2053 and its alternate - Kathmandu, central level.
- Two dimensions of torture related law: Commitments and implementation - Kathmandu, central level.
- Torture Prohibition Bill, 2064 as an alternate to Torture Compensation Act, 2053 - Kathmandu, central level.
- Torture Compensation Act, 2053 and its Alternate - Biratnagar, regional level.

Three consultation meetings were conducted at the central level with working papers. Discussions were held seeking suggestion to formulate a new Torture Compensation Act to replace the existing one. Representatives of political parties, government agencies, relevant Ministries, law enforcing authorities, lawyers and non-government sectors participated these programs. Some representatives from the government have suggested that the amendment to the existing Compensation Relating to Torture Act 1996 can also be done to make it more effective. Representative from the Home Ministry informed during one of the programs that they are preparing amendment, but, so far, the civil society is not consulted in this process.

The first draft of alternative Bill was presented in the regional level consultation meeting. Sectionwise discussion was held with the stakeholders on the draft. Preparations are being made to conduct other three regional level consultation meetings after accommodating the feedbacks received in the first meeting.

#### **Activity 4: Publication & dissemination:**

Following publications were prepared and disseminated during the Semester I & II covering January – December 2007:

##### **4.1 Compilation of impunity related documents:**

Altogether 18 instruments and reports including following have been accommodated in this publication:

1. Rome Statute – 1998.
2. Optional Protocol 2002 of CAT.
3. CAT Convention - 1984 (already available in Nepali).
4. European Parliament Resolution on Impunity in Africa and in Particular the Case of Hissene Habre.
5. UN Declaration of Basic Principle of Justice for Victims of Crime and Abuse of Power – 1985.
6. Report of the independent expert to update the set of principles to combat impunity – GE-05.10900(E)210205.
7. Brussels principle against impunity and for international justice 2002.
8. Convention on the Prevention and Punishment of the Crime of Genocide.
9. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.
10. Principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity.
11. International Convention for the Protection of Persons from Enforced Disappearance.
12. Basic Principles and Guidelines on the Right to a Remedy and Reparation for victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

13. Principles on Housing and Property Restitution for Refugees and Displaced Persons. (Endorsed by the UN Sub-Commission on the Promotion and Protection of Human Rights, Resolution 2005/21 of 11 August 2005).
14. The rule of law and transitional justice in conflict and post-conflict societies. (Report of the UN Secretary General).

The translation and publication of compilation document is already completed. Total 2000 copies of this document have been printed and being disseminated to the stakeholders.

Office of the Attorney General has requested FOHRID to publish second edition of this publication by incorporating "Elements of Crime" and "Rule of Procedure and Evidence" and provide them 1200 copies. As we do not have fund for additional translation and reprint under this project, we are planning to request financial assistance for this purpose from interested donors.

#### **4.2 Special Project Bulletin of FOHRID Human Rights Monitor:**

Out of total four, first issue has been published 1500 copies and being disseminated. Second issue is in the press now.

#### **4.3 Resource Book on ICC and Rome Statute:**

Total 2500 copies of the Resource Book has been published and it is being disseminated to the stakeholders.

#### **4.4 Leaflet cum parcha:**

Total 30,000 copies of leaflet cum parcha, carrying basic information about Rome Statute 1998 and Optional Protocol 2002 of CAT have been printed and widely disseminated. But the contribution of EU is not displayed in the leaflet as it was published in the joint collaboration with 40 human rights organizations. This activity was led by FOHRID but other organizations also shared printing cost and involved themselves in the dissemination.

Other publications proposed in the action are in progress and will be accomplished as set forth in the proposal.

#### **Activity 5: Formulate long-term intervention strategy plan of action to implement Rome Statute and Optional Protocol of CAT at the domestic level:**

This activity is in progress. Outcome of this activity will be visible at the end of project duration. We may face some difficulty in formulating long-term intervention strategy plan of action to implement Rome Statute and Optional Protocol of CAT, if the government fails to ratify Rome Statute of ICC and Optional Protocol of CAT in the project duration. In that case, the long term action plan will focus on the signature and accession of these instruments.

### **2.1.1 Result of the activities so far:**

Results of the activities, as reflected in the assumptions of the Logframe, are as follows:

- Public interest campaign has been established for the ratification of Rome Statute 1998 and Optional Protocol 2002 of CAT.
- Target groups have been empowered to raise collective voice for signature and ratification of the Rome Statute 1998 and Optional Protocol 2002 of CAT.
- Office of the Prime Minister, Speaker and Foreign Minister expressed their commitment for signature and ratification of the Rome Statute 1998 and Optional Protocol 2002 of CAT.
- The mainstream 8 political parties have expressed their commitment for the ratification of the Rome Statute 1998 and Optional Protocol 2002 of CAT.
- Target groups have been sensitised on the importance of Rome Statute 1998 and Optional Protocol 2002 of CAT. They have started to give pressure to the government to sign and ratify these instruments.
- This action has initiated collaboration of FOHRID with the civil society and human rights organizations. This has created unity and synergy among target groups. Campaign to combat against torture, impunity and crimes against humanity is getting momentum in an organized form.
- The Resource Book entitled "An Introduction of International Criminal Court" has been utilized to transfer the customized knowledge on the ICC to the stakeholders. The Book has sensitized the stakeholders on the issue.
- The "International Instruments Developed against Impunity" has provided theoretical knowledge to the stakeholders in their struggle and advocacy against impunity.

### **Quantification of output so far:**

1. Resource Book on Rome Statute and ICC - 2500 copies
2. Compilation of impunity related documents including Rome Statute - 2000 copies
3. Project bulletin (FOHRID Human Rights Monitor) - 1500 copies
4. T-shirt - 50 pieces
5. Leaflet cum parcha - 30,000 copies
6. Public Meeting and Mass Demonstration - 2 events
7. Interaction with target groups - 1 event
8. Lobbying vis a vis legislative organ - 4 rounds
9. Consultation meeting at the central level - 3 events
10. Consultation meeting at the regional level - 1 event
11. Draft legislation - preliminary draft produced for consultation with stakeholders

**2.2 Please list all contracts (works, supplies, services) above 5000€ awarded for the implementation of the action during the reporting period, giving for each contract the amount, the award procedure followed and the name of the contractor**

N/A

**2.3 Please provide an updated action plan**

Activity	Semester 3						Semester 4					
	1	2	3	4	5	6	7	8	9	10	11	12
Preparation Activity 1 Campaign & Advocacy												
Execution <b>Activity 1.</b> Campaign and Advocacy												
<b>1.1</b> Public meeting and mass demonstration												
<b>1.2</b> Interaction with target groups												
<b>1.3</b> Lobbying												
Preparation <b>Activity 2</b> Resource Book on Rome Statute and ICC												
Execution Activity 2 Resource Book on Rome Statute and ICC												
Preparation <b>Activity 3</b> Draft legislation and recommendation												
<b>3.1</b> Execution Activity 3 Draft legislation and recommendation												
Consultation meeting in central level												
Consultation meeting in regional level												
Preparation <b>Activity 4</b> Publication & Dissemination												
Execution Activity 4 Publication & Dissemination												
Preparation of <b>Activity 5</b> Long term strategy plan to implement Rome Statute and Optional Protocol of CAT												
Finalize action plan												
Quarterly project evaluation												
Annual report submission												

### 3 Partners and other Co-operation

**3.1 How do you assess the relationship between the formal partners of this Action (i.e. those partners which have signed a partnership statement)? Please specify for each partner organisation**

N/A

### **3.2 How would you assess the relationship between your organisation and State authorities in the Action countries? How has this relationship affected the Action?**

There is a good working relationship between state authorities and FOHRID. State bodies and agencies are positive to the issues raised by this project. This has ultimately helped to yield a positive result. From the Semester I & II of this project implementation, state agencies such as Office of the Prime Minister, Ministry of Home, Ministry of Law, Justice and Parliamentary Affairs, Ministry of Foreign Affairs have expressed their commitment to work for the ratification of the Rome Statute 1998 and Optional Protocol of CAT 2002. FOHRID has provided "International Instruments Developed against Impunity" and "An Introduction of International Criminal Court" to the Office of the Attorney General and Nepal Army. These government agencies are utilizing the resource books to train their respective staff. This is the result of the good rapport between FOHRID and the state authorities.

While implementing project activities, we have received positive response and cooperation from the government institutions including Nepal Army when we used the letter pad with the logo of EU and FOHRID together in our project related correspondence.

### **3.3 Where applicable, describe your relationship with any other organisations involved in implementing the Action:**

- **Associate(s) (if any):** N/A
- **Sub-contractor(s) (if any):** N/A
- **Final Beneficiaries and Target groups**

The relationship of FOHRID with the final beneficiary and the target group has remained smooth during implementation of this project. Final beneficiaries and target groups have been actively involved according to their determined role in implementation of all the activities. More than 40 organizations / institutions of human rights community, civil society, occupational groups have been involved in the campaign for the ratification of Rome Statute. ICJ, OHCHR Nepal, Amnesty International Nepal are contributing to prepare Impunity Document and Resource Book.

- **Other third parties involved.**

No third party is involved in the campaign so far.

### **3.4 Where applicable, outline any links you have developed with other actions**

This project does not have direct link with other activities developed by FOHRID. Nevertheless, we have been advocating for the protection and promotion of the rights of victims under this project. This activity has linkage with another activity entitled "Advocacy on social, economic and legal justice for victims of conflict project" being implemented under funding from the Action Aid. We raise the issue of bringing the perpetrators into justice system, justice and compensation for victims, retroactive justice and impunity as cross cutting issues. FOHRID has been

determining activities with focus to the transitional justice and Truth and Reconciliation Commission. The issue of impunity raised in this project will contribute in the campaign. Therefore, the activities of torture and impunity project have linkage with other actions implemented by FOHRID.

**3.5 If your organisation has received previous EC grants in view of strengthening the same target group, in how far has this Action been able to build upon/complement the previous one(s)? (List all previous relevant EC grants).**

Yes, FOHRID had received previous EC grant to work for almost the same target groups. This can be illustrated as follows:

**Title of the project or grant title:** Ending unlawful killings and impunity project

**Reference number of the project:** DDH/2005/1125-736

**Project duration:** January 2006 to December 2007

Action of this project is built upon / complements the previous action. The current project has addressed relevant issues left by the previous one. Focus of the first project was unlawful killing and impunity whereas the current project has focused torture and impunity. The first project strengthened the stakeholders against impunity but it did not directly address the ratification of Rome Statute 1998 of ICC and Optional Protocol 2002 of CAT. Publication of the "International Instruments Developed against Impunity" has fulfilled the need of a document to conduct advocacy against impunity. The current project has complemented necessity of the target groups. Nevertheless, these are two separate projects. They have separate objectives based on the issues covered. But, ultimately the long-term goal of both the projects is similar.

#### **4 Visibility**

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**How is the visibility of the EU contribution being ensured in the Action?**

The logo of the European Union and a phrase "A project funded through the European Initiative for Democracy and Human Rights" have been reflected in publications of the project produced documents including letter pad and press statements. Similarly, the logo of European Union has been displayed in the front cover page of FOHRID Human Rights Monitor and backside cover page of the "International Instruments Developed against Impunity" and "An Introduction to the International Criminal Court". T-shirts have been produced using the name and logo of the European Union. It bears the slogan "Ratify Rome Statute 1998 of ICC". Total 50 pieces of such T-shirts were distributed among volunteers actively involved in the ICC Week.

"Financial support by European Union" has been written in the banner used for public program including consultation meetings.

**The European Commission may wish to publicise the results of Actions. Do you have any objection to this report being published on EuropeAid Co-operation Office website? If so, please state your objections here.**

We have no objection to this report being published on EuropeAid Cooperation Office website. Rather, we request the EuropeAid Cooperation Office to publish information of this report on its website.

**Name of the contact person for the Action:** Advocate Raj Kumar Siwakoti,  
Secretary General

**Signature:** .....

**Location:** 196/14 Radhe Marga, Dillibazar, Kathmandu

**Date report due:** End of December 2007

**Date report sent:** 14 January 2008