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European Initiative for Democracy and Human Rights

Third Interim narrative report

Project title: **Ending unlawful killing and impunity
project**

Contract no: **DDH/2005/112-736**

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

Duration covered by the report: **January 2006 to June
2007**

Submitted by:

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European Initiative for Democracy and Human Rights

THIRD INTERIM NARRATIVE REPORT

Introduction

1. Name of beneficiary of grant agreement and of legal representative:

FOHRID, Human Rights and Democratic Forum

2. Name and title of the person responsible for the project:

Advocate Raj Kumar Siwakoti, Secretary General of FOHRID

3. Title of the project: Ending Unlawful Killings and Impunity Project

4. Reference number of the project: DDH/2005/112-736

5. Start date of the agreement: January 2006

End date of the project: December 2007

6. Target country(ies) or region: Nepal (Kathmandu, Bhaktapur, Lalitpur districts)

7. Target beneficiaries &/or target groups¹:

Target groups of this programme: Concerned Ministries, government officials, Office of Attorney General, National Human Rights Commission, Nepal Bar Association, policy makers, law enforcing authority, political parties and their cadres, Nepal Army, Nepal police, Armed Police, trade unions, human rights organizations, occupational groups, lawyers, journalists, women, Dalit and ethnic communities at the central level. The target groups have been categorized as follows:

Direct beneficiaries: Representatives from government and civil society (50 NGOs)-1000; justice and compensation will be ensured to at least 30 victims and their family members through prosecuting public interest litigation cases.

Indirect beneficiaries: Lives of thousands of innocent people will be saved in the long term by the action to draw the attention of the parties in conflict through campaign to end impunity.

8. Country (ies) in which the activities take place: Kathmandu, Nepal

A. Compliance with the Grant Agreement

1. Has the project been carried out as foreseen in the terms of reference of the agreement? If not, please explain how and why the original proposal was modified, including the dates that any addenda were requested and approved.

Yes, the project has been carried out as foreseen in the terms of reference of the agreement.

2. Was the provisional budget of the project respected so far? If not, please explain any changes that have occurred.

The provisional budget of the project has been respected but we have made slight alteration in the budget with the permission of EC.

In the project proposal, we had proposed 5 (five) member implementation team under Human Resources and allocated budget accordingly. But considering burden of work, we have added 2 (two) additional officers to be paid from the amount under the same head. Now the total number of staff is 7 (seven) but the total amount under the head has remained same. This alteration has been acknowledged by European Commission in the letter AHoD/SB/N-237/06 dated 23th March, 2006.

B. Project Objectives

Overall objective of the project is: To end unlawful killing and impunity for strengthening the rule of law and promotion and protection of human rights.

Specific objectives of the project are:

- 1) To develop public interest campaign to draw attention of the target groups to end impunity in the security forces for improving rule of law.
- 2) To draft legislation recommendation for the end of impunity.
- 3) To create pressure against Maoists to respect HR.
- 4) To establish a Task Force at the national level to combat impunity.
- 5) To study situation of impunity in the country and to prepare a report in this regard.
- 6) To initiate advocacy for improved respect of HR.

C. Project Activities

1. Campaign and advocacy:

Campaign and advocacy is a major activity of this project because it directly relates to fight against impunity by sensitizing stakeholders. It stresses the government and Maoist leadership to be accountable especially in the context of increasing incidents of impunity and human rights violations. Three activities have been conducted with specific issues and references under campaign and advocacy. Following activities were conducted as per the calendar of Semester I and Semester II in the Year I and plan of activities for Semester – III in the Year II:

1.1 Public hearing and mass demonstration:

Three events public hearing and mass demonstration completed so far. Public hearings were conducted on the issue of "Collective campaign for ending unlawful killings and impunity". In the first event, FOHRID organized a press conference and a program for hearing the voices of the family members of victims from Jogimara on the day of mass demonstration. In the second event, hearing the voice of family members of victims from Kahule VDC and Bageshwori VDC of Nuwakot district was held. The family members of victims were brought to Kathmandu and similar press conference was held with demonstration on the above issue.

Similarly, third event was organized in front of Singhdarbar with a view to create pressure to put an end to the prevalent impunity situation. One event of demonstration was held at Maitighar Mandala demanding ratification of the Rome Statute of ICC. In the course of public hearing and mass demonstration, a sit-in program was organized to urge the government take action against the perpetrators of Gaur incident of Rautahat district where 27 Maoist cadres were killed mercilessly. Background speakers and representatives of victims expressed their views and experiences and demanded immediate justice for victims during the above occasions.

1.2 Focus group discussion:

Three events of 'focus group discussion' were held. In the first event, it attempted to address following issues at the highest level:

- Draft legislation for ending impunity through new provision.
- The incidents where the security forces were responsible for unlawful killings and the responsible persons escaped justice through impunity.

With these issues, the focus group discussion was centralized on the mechanism, process, content and scope of the preliminary draft of Impunity Bill.

In the second event, discussion was held on the preliminary draft of Impunity Bill prepared by Citizen Law Drafting Council. A consultation meeting was held in Kathmandu and national and international experts actively participated in the program. The participants explored the strong and weak aspects of the Bill and suggested measures to make it perfect. The participants also sought further discussions at broader level.

In the third event, a discussion program was held on the theme of 'Serious violation of human rights, impunity and indifference of State'. The discussion aimed to make public the serious incidents of human rights violations and the indifference of State.

In addition to this, first part of the forthcoming event was completed. The fourth event of the focus group discussion was conducted dividing into two parts. This program was conducted on the issue of 'Implementation status of NHRC's recommendations and impunity'. The programme was jointly organized by FOHRID and National Human Rights Commission (NHRC). This program was organized to evaluate the implementation status of the recommendations made by NHRC and to identify measures to improve the situation.

Representatives of government, security forces, civil society, journalists and victims participated the program.

1.3 Interaction/ Round Table Discussion:

Total five events of 'interaction / round table discussion' were held. First event of this activity was conducted dividing into 5 parts and following points were focused for the discussion:

- Impunity situation, subject matter and its trend;
- Unlawful killings and the responsibility of the security forces and the Maoists;
- Incidents of unlawful killing, rape, torture, torture in custody, death in custody and issues of action against responsible persons;
- Possibility to initiate collective efforts against impunity;
- Existing policy and draft recommendation to improve them;
- Task Force formation to combat impunity and relevancy, work plan, structure and Secretariat of the Task Force determined.

In the second event, interaction was held on the issue of "Impunity, ratification and implementation of Rome Statute". The programme organized as a joint initiative of Amnesty International Nepal and FOHRID in favour of the ratification and implementation of Rome Statute was acclaimed for being contextual. The programme was conducted to sensitize people on the international practice against impunity and status of struggle against impunity at the domestic level.

Third event of this activity was held into two parts. First part was held with the initiative of the Task Force. The interaction focused on the existing impunity situation in the judiciary, civil service and Nepalese army on the issue of "Impunity and the present government". Second part was held in the context of historic agreement between Seven Party Alliance (SPA) government and CPN- Maoist on the issue of "Access to justice for conflict victims and impunity" with the initiative of FOHRID.

In the fourth event, interaction was held on the issue of 'Responsibility of interim parliament against impunity'. It focused the role to be played by the interim parliament in relation to the execution of the report of Disappearance Commission, Mallik Commission, Rayamajhi Commission and the need of an effective law with retrospective effect to fight against impunity.

Fifth event of this activity was held on the issue of 'Nepalese law, practice and situation of the report of Rayamajhi Commission in the context of impunity'. This event was scheduled for Semester IV but the relevancy of the discussion on the topic was the concern of the time and ongoing situation which was related to the prosecution against the perpetrators of People's Movement II defying the royal take over.

All these events emphasized intervention at the policy level. FOHRID project team and other experts prepared background documents for discussion on the above-mentioned issues and human rights experts made their oral presentation / comments.

List of involvement of target groups is tabled below:

S.N.	Activities	# of events	Total participants			Remarks
			M	F	Total	
1	Public hearing / Mass demonstration	3 events completed	2052	936	2988	
2	Focus group discussion	3 events completed	336	80	416	
3	Interaction / round table discussion	5 events completed	490	117	607	
4	Consultation meeting on draft bill*	3 events	138	46	184	
Total			3016	1179	4195	

Note: Most of the participants represented their respective organizations.

2. Draft legislation:

Draft legislation process was extended through following mechanism during Semester – I & II of the Year I and Semester III of the Year II.

i. Citizen Law Drafting Council for Eradication of Impunity: 'Citizen Law Drafting Council for Eradication of Impunity' was formulated. Altogether 43 representatives identified by this project participated in the Council. It provides consultations and feedback to the Drafting Committee in the Impunity Bill drafting process. It had the policy to include interested organizations and individuals in the law drafting process.

ii. Focal Point: FOHRID was designated focal point to facilitate the drafting process. This activity was accomplished according to the suggestions of the stakeholders to run the campaign against impunity in the long run and to make the draft legislation effective.

iii. Drafting Committee: A Drafting Committee was formed under the coordination of senior human rights defender Advocate Nutan Thapaliya. With the help of 7 members, Advocate Bhimarjun Acharya is coordinating the drafting process. Three rounds of consultation meeting were held between FOHRID and OHCHR Nepal regarding the process. OHCHR Nepal provided important technical assistance in this regard.

Discussion and consultation meeting on Draft Bill:

Two round discussions, one each by Drafting Committee and Citizen Law Drafting Council have been held. One event of consultation meeting was held on the preliminary draft of the Impunity Bill in Kathmandu and the need of another round of broader consultation meeting as well as more discussions at national levels was felt in Semesters I & II to give it a final shape. So, section-wise consultation with four experts was conducted in law drafting and suggestions were collected during Semester III. The bill has been amended and updated as per suggestions received. An English version of the bill has been prepared to receive feedback from the international experts. Now, after having completed a subtle discussion within a core group of technocrats, a broader conference will be organized and the bill will be finalized in the early months of Semester IV.

2.1 Recommendation / lobbying:

Implementation strategy of this activity is divided into 2 levels:

First, lobbying to pass the Bill from the Parliament after completion of draft legislation and follow up for implementation of the Bill.

Second, to draw the attention of the stakeholders in the struggle against impunity by lobbying and to present concrete recommendations to the government and non government mechanisms to minimize the problems of impunity. For this, following notable efforts were made:

- a) In the Golden Jubilee Declaration (Kathmandu Declaration, Para. 4) of the 10th All Nepal Lawyers Convention held from 1 – 4 March 2006, the issue of the ratification of Rome Statute, 1998 was mentioned as necessary for ending impunity. Advocates associated with FOHRID lobbied actively to incorporate this issue in the Declaration. FOHRID Chairperson and Secretary General, who participated the august gathering as lawyers, submitted written recommendations to the Declaration Drafting Committee.
- b) In the context of reinstated lower house of the Parliament (House of Representatives) by popular movement, FOHRID Human Rights and Democratic Forum and Joint Forum for Human Rights and Peace jointly organized a discussion program at Nepal Bar Association Hall on April 27, 2006 (14 Baishakh, 2063). The topic of the program was "Content to be immediately addressed by the reinstated House of Representatives in the forthcoming meeting". The issue of unlawful killings and impunity, as well as promotion of rule of law and protection of human rights, were strongly raised in the discussion and constructive suggestions were recommended. The discussion program passed 7 priority work list put forth by FOHRID. These recommendations were compiled and submitted to the 7 political parties, Prime Minister and Home Minister of Nepal.

Besides, FOHRID has submitted recommendations and lobbying is being conducted with Nepal Government on the following issues:

- I. Necessary law must be formed and promulgated to eradicate impunity;
- II. A high level commission must be formed to investigate and punish the perpetrators involved in the unlawful killings carried out by the security forces in the name of tackling conflict, e.g. killing of 8 farmers at Pandusen of Bajura in October 2002 and killing of 35 labourers at Kalikot on 14 February 2002; and to declare the incidents as crimes against humanity;
- III. Rome Statute 1998 of ICC must be ratified immediately;
- IV. TADO (Terrorist and Destructive Ordinance) should be declared void and the Acts regulating Nepalese Army, Nepal Police and Armed Police Force must be amended according to the spirit of democracy;
- V. Ministers, administrators and security forces responsible to suppress the people's movement II with excessive use of force must be interrogated through a powerful commission, and punished;
- VI. Perpetrators involved to suppress the popular movement of 1990 as recorded by the Mallik Commission must be brought into justice;
- VII. The activities of the Nepalese Army should comply with expectations of people in the new democratic environment.

- c) In the rapidly changing political scenario of Nepal, lobbying was extended to put the provisions to curb impunity in the recent instruments such as Interim Constitution of Nepal 2063, political agreements between Nepal government and CPN (Maoist) and comprehensive peace accord. This task was conducted with the joint and collaborative efforts of human rights community.
- d) During the Semester III, FOHRID along with various human rights organizations and civil society members submitted a memorandum to the Speaker of the Legislative-parliament demanding immediate appointment of the NHRC Commissioners which are vacant for a long time.
- e) FOHRID and NHRC jointly organized a workshop on "Implementation status of NHRC's recommendation and impunity". The outcome and recommendations of the workshop was submitted to the Home Ministry and the Office of the Prime Minister for implementation.

3. Prosecute 4 public interest litigation (PIL) on impunity:

As mentioned in the project proposal, 4 PIL cases were filed in the Supreme Court. Brief account of the cases is as follows:

A) Case of Umesh Chandra Thapa:

Petition filed by (plaintiff) Advocate Birendra Prasad Thapaliya, Chairperson of FOHRID as authorised (plaintiff) to do so on behalf of Jagadish Thapa, son of late Umesh Chandra Thapa.

Public writ against (Defendant): Office of Prime Minister & Council of Ministers of His Majesty's Government (HMG), Defence Ministry, Home Ministry of HMG, Dang Ghorahi District Administration Office of HMG, Shrinath Barrack Ghorahi, Dang of Nepalese Army, Dang District Police Office, Ghorahi of HMG.

Case Title: To give suitable ruling and order including mandamus according to the Constitution of the Kingdom of Nepal, Article 88 (2).

Type of case: Public interest litigation on unlawful killing and the issue of impunity.

Demand of case:

- Necessary compensation be provided to the petitioner, including his family from the opponent party to compensate the impact of loss.
- Maximum punishment and fine be ordered to the security personnel who fired against an innocent citizen without caring the minimum condition and standard determined by law and the Army Security Officer who ordered this.
- An order be issued to form and implement a law that ensures victim of any illegal and irresponsible action caused by the law enforcing authority to claim compensation of loss by such action. This demand is directly related to form and implement an effective law against impunity.
- One separate commission be formed to conduct fair investigation and determine compensation of the incident and other necessary works in this regard.

Written replies received by the Respondents:

- From Umesh Prasad Mainali, Secretary, on behalf of Home Ministry of the Government of Nepal

Progress of the case:

- Supreme Court has issued show cause orders in the name of opponents of the case with prerogative order for further court process on 4 May 2006.
- General dates for presence were given on 7 June and 31 August 2006.
- Due date of hearing was postponed on 17 October 2006.
- Next hearing has been designated on 16 January 2007.

B) Case of the killing of 35 labourers in Kotbada Airport Construction site in Kalikot District:

Petition filed by (plaintiff)- Advocate Birendra Prasad Thapaliya, Chairperson of FOHRID and authorised (plaintiff) to do so on behalf the victims' families (17 labourers out of 35) of Jogimara whose family members - son/ husband/ father - had been killed at Kotbada.

Public writ against (Defendant): Office of the Prime Minister and Council of Ministers of Nepal, Defence Ministry, Nepalese Army Headquarters, Nepalese Army Ranadal Barrack of Kalikot, District Police Office of Kalikot, District Administration Office of Kalikot and District Administration Office of Dhading.

Progress of the case:

- Supreme Court has issued show cause orders in the name of opponents of the case with prerogative order for further court process. Written replies have been arrived from all the respondents.
- Next hearing has been fixed for 16 January 2007.

C) Case of the killings of 5 youths in Kaule VDC of Nuwakot district:

Petitioner- Advocate Birendra Prasad Thapaliya, Chairperson of FOHRID and authorised (plaintiff) to do so on behalf of victims' families of Kaule, Nuwakot whose family members had been gunned down on 11 Mansir 2059.

Public writ against (Defendants): Office of the Prime Minister and Council of Ministers of Nepal, Defense Ministry, Nepalese Army Headquarters, Nepalese Army Bhagawati Prasad Gulma, Nuwakot, District Police Office of Nuwakot and District Administration Office of Nuwakot.

Progress of the case:

- Supreme Court has issued show cause order in the name of opponents.
- General date of presence were given on 13 September and 17 October 2006.
- Written replies yet to be arrived.
- Next date of presence is given for December 17.

D) Case of the killing of Khet Prasad Lamichhani (a dumb) in Bageshwari VDC of Nuwakot district:

Writ petitioner: Advocate Birendra Prasad Thapaliya, Chairperson of FOHRID and authorised (plaintiff) to do so on behalf of victim's family.

Public writ against (Defendants): Office of the Prime Minister and Council of Ministers of Nepal, Defense Ministry, Nepalese Army Headquarters, Nepalese Army Bhagawati Prasad Gulma, Nuwakot, District Police Office of Nuwakot and District Administration Office of Nuwakot.

Progress of the case:

- Supreme Court has issued show cause order in the name of opponents.
- General date of presence were given on 13 September and 17 October 2006.
- Written replies yet to be arrived.
- Next date of presence is given for December 17.

These cases are the first court practice from the viewpoint of jurisprudence of impunity. It is hoped that the court will give landmark decision with clear description to support campaign against impunity.

During Semester III, FOHRID continued to follow up all the four cases and regularly attended on the date of presence given by the court. Next date of presence for the former two cases (Umesh Chandra Thapa and Kalikot killing) has been given on 12 August 2007. In these cases, the court has issued order for further inquiry to the opponents about the compensation. In the latter two cases, Nepalese Army, Bhagawati Prasad Gulma, Nuwakot was the striking force and this force is now in Solukhumbu district. The response from this opponent is yet to be received.

4. Task Force formation:

A Task Force to struggle against impunity was formed on 24 August 2006 under the activity of the Semester II. An 11 member Core ad hoc Steering Committee of the Task Force was formed. Additional 12 members are involved in the ad hoc Task Force. Members of the Task Force represent human rights sector, civil society and professional groups.

During the Semester I & II this Task Force was in the process of being developed as a mechanism to work for a long term to combat against impunity on behalf of non government sector. Accordingly, the Task Force Involvement Form was developed, disseminated to fill up, collected and prepared a list of members during the Semester III. More than 300 individuals and organizations have been involved in the Task Force.

Focal point of Task Force: FOHRID is designated as the focal point to coordinate, manage and mobilize the Task Force.

4.1 Task Force Mobilization:

The Task Force decided to take immediate action on the following issues to forward strong action against impunity:

- A public discussion programme should be organized to debate on the inability of the government to take action against the senior government officers (Chief Secretary, Chief of the Army Staff).
- To organize a public rally and to submit a memorandum to the Prime Minister in this regard for creation of public pressure.
- To initiate a strong campaign as public litigation against the incidents of serious violation of human rights including unlawful killings and disappearances, especially the case of disappearances of 49 detainees from the Bhairabnath Barrack, Kathmandu.

In Semester III, a meeting of Task Force was convened at the office of FOHRID, its secretariat and the meeting discussed the agendas in the context of necessity of the civil society to determine short and long term effective programmes including action, activities and issues to create pressure at the national and international level with a view to combat against impunity. Besides, the Task Force held a public rally and public hearing for publicizing and implementation of the report of Rayamajhi Commission and implementation of the report of Mallik Commission. It also drew the attention of the government on the Nepalganj incident where there had been a violent clash between Madheshi and people from hilly region.

The Task Force is being mobilized according to its mandate. It has held various meetings, discussions and interactions to attain its goal.

5. Study and preparation of report on situation of impunity in Nepal:

This study is in the final stage of editing. The result of this study will be published in the 2nd month of Semester IV. Till then, this study will go on. In this context, following activities were completed so far:

- Collection of study materials.
- Content and overall study framework were determined (in Nepali Language).
- Impunity related Nepali literature were reviewed.
- Preliminary draft of this study were completed in Nepali.
- Relevant international documents were translated. The translated documents include Brussels Principles against Impunity and for International Justice, UN updated set of principles for the protection and promotion of human rights through action to combat impunity.

Final editing is in progress and we are preparing for its printing.

6. Publication and dissemination:

For publication and dissemination, two-fold implementation strategy has been adopted:

First, outcomes of the program activities have been widely disseminated via electronic media. The findings of all the activities under this project have been sent via electronic mail, which has helped to sensitize target groups against impunity.

Second, Hard copy publication based on activity 5 and overall program report is in progress. These publications will be published within the date as specified in the project calendar.

As per the contract, six issues of **FOHRID Human Rights Monitor** have been published.

These publications were disseminated widely among stakeholders. Other publications are in progress.

7. Formulate long term strategy plan of action to combat impunity:

Though the long term strategy plan of action will be formulated at the end of the project, we realized that the following additional activities must be conducted to struggle against impunity:

- To ensure access of grass root level people in the campaign and advocacy;
- To take the draft legislation process to regional level.
- To begin the advocacy and lobbying for the ratification of Rome Statute-1998 immediately.
- The campaign against impunity should be taken to the community level. Likewise, a strong network is necessary for a long term struggle.

In the course of formulating strategic plan of action, consultation meetings and discussions were held at the office of FOHRID for the preparation of primary draft. A tentative document for the action plan was prepared. Findings and recommendations of the conducted programmes have been complied. One more extensive consultation meeting will be organized in Semester IV and the plan of action will be finalized.

Output of the activities:

- Public hearing/ mass demonstration – three events (out of four events) were held.
- Focus group discussion – three events and one part of fourth event (out of four events) were held.
- Interaction/ round table discussion – five events completed.
- Incidents of serious violations of human rights and severe breach of humanitarian laws were uncovered.
- Initiatives were made to find ways out of the entrenched culture of impunity.
- Stakeholders sensitized on the impunity situation in the country.
- The implementation status of the recommendations made by NHRC was evaluated and tried to identify measures to improve the situation.
- For draft legislation, "Citizen Law Drafting Council for Eradication of Impunity" was formed with consultation and consent among stakeholders. FOHRID was designated focal point. A Drafting Committee was formed which has already produced a preliminary draft of the Impunity Bill. Two round discussions were held by the Drafting Committee and Citizen Law Drafting Council.
- One event consultation meeting was held on the Draft Bill in Kathmandu.
- Updated version including the feedbacks and recommendations prepared.
- Four public interest litigation cases have been filed in the Supreme Court.
- Stakeholders have been actively involved in the Task Force and it has covered pioneer human rights organizations and defenders.
- Six issues of FOHRID Human Rights Monitor (total 6000 copies) were published.

Assessment of the results of the activities:

- The target groups are found to be more interested to struggle against impunity.
- Campaign and advocacy has formed public opinion to create public pressure against impunity and drag the issue of impunity into nationwide debate.
- Participation of stakeholders was much more than our expectation and the action of interaction/round table discussion boosted the campaign.
- Adequate foundation has been prepared to establish public interest campaign against impunity.

- The PIL cases drew the public attention in the issue of rule of law.
- Society is guided towards ending impunity through the activities conducted and the customized knowledge.
- Nepal Bar Association, political parties, civil society, human rights organizations have raised the issue of impunity at different forums and expressed solidarity to this campaign. Similarly, due to strong pressure of the target groups the provision to deal with impunity has been incorporated in the peace accords and the Interim Constitution of Nepal-2063.
- The government has accepted disappearance as a serious crime against humanity and is preparing necessary amendment in the existing law to improve the situation.
- Stakeholders have realized the necessity of a separate law to address the issue of impunity. Public opinion is formed in this regard.
- The case filed by FOHRID on the killing of Umesh Chandra Thapa was the first PIL of this kind. This encouraged stakeholders to fight against impunity and filing of writ on the incidents of serious violation of human rights has increased significantly.

2. What problems have arisen and how have these been addressed?

- We faced some problems while starting draft of Impunity Bill, particularly we could not receive expected cooperation from the human rights community in the beginning. Nevertheless, we have received cooperation and solidarity after 18 months of exercise. The provision of retrospective effect in the Impunity Bill was a matter of debate for a long time. By this time, stakeholders are convinced on this provision. OHCHR Nepal submitted comments and recommendations on disappearance and abduction bill to the Ministry of Law, Justice and Parliamentary Affairs on 7 May 2007. The recommendation has insisted that such laws can be formulated with retroactive effect. This has strengthened the provision of retroactive effect in the Impunity Bill drafted by FOHRID creating positive attitude of the stakeholders in the Bill.
- Representatives from some INGOs discouraged us by saying that the Impunity Bill does not exist anywhere in the world, but we faced such comments with patience.
- In connection to the project implementation, FOHRID has not faced any significant problem during Semester I & II. People's Movement II created some disturbances but its success made more favourable environment.
- As the peace process is undergoing and the whole country is engaged in the political issues such as election of constituent assembly, the involvement of senior leaders could not be arranged as expected in the component of project implementation including draft legislation. But FOHRID has been disseminating information time to time to update them and seek their help in the implementation process.
- Results of the efforts to involve representatives of CPN (Maoist) was not satisfactory. Despite this, we have been inviting them in every programme relevant for them.
- For draft legislation, absence of adequate resource materials and inadequacy of financial and technical resources were felt to take the discussions to regional level. Proposals were submitted to the local donor agencies but could not succeed. For draft legislation, we have contacted with international human rights organizations including OHCHR Nepal and International Jurists Commission (ICJ) for technical assistance and resource materials. This draft of Impunity Bill is needed further detail discussions and consultation meeting for giving the Bill final shape. For this, more resource is required. Though two events of discussion have been held, we could not take the discussions to the regional level due to financial constraint. However, we have widely disseminated the draft Impunity Bill

via electronic mail and received many valuable comments and suggestion. The contribution of OHCHR Nepal in drafting legislation is praiseworthy.

- Maoist insurgency and political instability were regarded as problems while preparing the project proposal but this situation has improved after the government and the Maoists agreed to resolve the political problems through peaceful means.
- Present changed political situation is favourable to work against impunity. Recent political development such as historic agreement between Government of Nepal and the CPN (Maoist), comprehensive peace accord and inking on the tripartite arms management accord have made the situation more conducive.
- We are facing some procedural hassles in case filing. Adequate legal ground is necessary for case filing in the issues raised by this project. For this, we are trying to utilize the grounds of international human rights laws ratified by Nepal.
- In draft legislation process, party representatives and government officials are being involved and lobbying for the participation of CPN (Maoist) is going on.
- The misunderstanding on truth and reconciliation somehow tried to mislead and contribute to shadow the campaign against impunity, but the transfer of customized knowledge derived from international practice has helped to clarify and boost the campaign against impunity.

3. Please list all materials and publications (and no. of copies) produced during the project to date and include one copy of each item in the report.

Total 6000 copies, 1500 copies in each issue of FOHRID Human Rights Monitor have been published and widely disseminated among the stakeholders, participants of project activities and visitors in the FOHRID office. These publications were also disseminated in the public programs of other organizations and the places visited by office bearers of FOHRID. Details are given below:

Sl. No.	Issue	Date	# of copies	Remarks
1	Year IV, no. 12	Apr-May 2006	1500	Double
2	Year IV, no. 13	Aug 2006	1500	Single
3	Year IV, no. 14	Dec 2006	1500	Single
4	Year V, no. 16	May-Jun 2007	1500	Double
		Total	6000	

4. Please give a plan of activities for the financial period between this interim report and the next one.

This report consists of all the activities of the Semester I & II of the Year I and Semester III of the Year II. Next report will be the final report and be presented after completion of Semester IV. The plan of activities of this financial period of Semester IV is as follows:

Plan of activities for Semester – IV (June to December, 2007)

SN	Activities	Execution month	Remarks
1	Campaign & advocacy	July to December 2007	Continue all months
1.1	Public hearing / mass demonstration	July to November 2007	One event
1.2	Focus group discussion	July to November 2007	One event
1.3	Interaction and round table discussion	Various dates	5 events completed
2	Draft legislation	July to October 2007	2 events, one consultation meeting with technocrats and another broader conference will be conducted.
2.1	Recommendation / Lobbying on the Bill and impunity issue	All months	Lobbying will continue all months
3	Prosecute cases / follow up	All months	All four cases were filed and the follow up process will continue.
4	Task Force	September 2007	A permanent Task Force will be finalized
4.1	Mobilization of Task Force	Continue	
5	Study	September 2007	Printing and dissemination
6	Publication / dissemination of FOHRID Human Rights Monitor		Completed
6.1	Programme Report	1st week of January 2008	Printing & dissemination
6.2	Draft legislation	Last week of October 2007	Printing, dissemination and lobbying
7	Formulate long-term plan to combat impunity	2nd week of December 2007	Finalize & printing
8	Final Evaluation	1 – 15 January 2008	Finalize
9	Final Report	3 rd week of January 2008	Submission of Final Report of the project

5. Please outline any changes to the foreseen activities or timetable, explain the reason for these.

All the activities are being conducted according to the time table of implementation in each Semester except one event interaction/round table discussion. Though scheduled for the Semester IV, fifth event of this activity was held in Semester III because the relevancy of the discussion on the issue was the contextual at that time. The event was related to the prosecution of the perpetrators of People's Movement II after the royal take over. One interaction was held on the issue of 'Nepalese law, practice and situation of the report of Rayamajhi Commission in the context of Impunity'.

However, some events designated to accomplish in a particular month are conducted dividing into different parts. This is not the calendar change. Reason behind this is to ensure wider participation of the identified stakeholders. This has facilitated to accommodate more and more target audience in the implementation of the project activities.

D. Results, Impact, Multiplier effect and Evaluation

1. What results have been achieved during the reporting period (based on the results anticipated in the term of reference)? Please quantify these results where possible.

Results of the overall project implementation level:

- The Semester I & II of the Year I and the Semester III of the Year II have been successful to make understand the gravity of the problem of impunity to target groups and the target groups have started to express and claim for an impunity free society. Civil society has shown solidarity in the campaign against impunity. The Task Force established under this project has initiated its work to create pressure for the punishment of the guilty.
- Established ground for public interest campaign against impunity. Reflection of this campaign has reached nationwide in all sectors. Some of the victims have received certain amount of immediate relief from national and international institutions and individuals. Semester III helped to strengthen and empower voice of the target groups.
- Target groups are sensitized to raise their voice against draconian laws like TADO. The TADO was repealed.
- FOHRID has been successful to file all the 4 cases of the incidents of unlawful killings as described in the project proposal – the cases of Umesh Chandra Thapa killed during a peaceful protest in Dang district, 35 labourers killed in Sunthali airport construction site, Kotbada of Kalikot district, the killing of 5 innocent youths in Kaule VDC of Nuwakot district and the murder of a dumb at Bageshwari VDC of the same district. These cases are the first cases of the kind filed in the apex court in relation to unlawful killings and impunity. The decisions to be given in these cases will deserve significant importance in the judicial sector.
- FOHRID has prepared preliminary draft bill aimed to combat against impunity in Nepal
- Security forces have expressed their commitment to investigate cases of unlawful killings and taken action against perpetrators in some cases.
- A consensus has been built up among stakeholders that impunity should be addressed at the policy level. Stakeholders of all sectors have started to raise strong voice to punish the perpetrators.
- Ending impunity has become an agenda in the political arena. The decision of the Office of the Parliamentary Party of Nepali Congress to adopt the issue of impunity as the agenda of the Party is the latest example of it.
- Media coverage of the mass demonstration and hearing of victims family members of Kalikot killings and Kaule and Bageshwari incidents made the campaign nationwide.
- More importantly, FOHRID has started to intervene "impunity" as a single issue through this project, which constitutes solid foundation to fight against impunity in the long run. Unlawful killing is the main focus in the present project and now FOHRID has also planned to work on torture, which is relevant to the first one.
- Institutional capacity building of FOHRID has been achieved.

Results of the output of the activities implementation level:

- Six issues of FOHRID Human Rights Monitor (total 6000 copies) were published.
- Incidents of serious violations of human rights and severe breach of humanitarian laws were uncovered.
- Initiatives were made to determine way out of the entrenched culture of impunity.
- Stakeholders were sensitized about the impunity situation in the country.

- For draft legislation, "Citizen Law Drafting Council for Eradication of Impunity" has been formed, with consultation and consent among the stakeholders. FOHRID has been designated focal point.
- A Drafting Committee was formed which prepared a preliminary draft of the Impunity Bill during the Semester II. Feedback were received and genuine suggestions were incorporated and the bill was updated in Semester III. The bill is at the stage of being finalized.
- Four public interest litigation cases have been filed. Hearing of the cases is going on smoothly.
- The Task Force has been established and it has started working.

2. What is your assessment of the results of the project so far? Include observation on the extent to which foreseen goals are being met and whether the project has had any unforeseen positive or negative results (see Indicators in Logframe).

- Specific objectives 1, 3, 4 and 6 determined under the project have been achieved and rest of others 2 and 5 are in progress.
- Public interest campaign is in the positive way to make security forces and Maoist leaders accountable to respect human rights.
- Reinstated House of Representatives on 25 July 2006 gave directive order to the government to ratify the Rome Statute. Government formulated a team to assess the impact of the ratification of the Rome Statute of ICC and the team has already submitted its report.
- The action taken by the government on the recommendations submitted by NHRC shows that the scale of impunity has not decreased. Though the degree of impunity is not reduced now, the chances to increase are minimized. It has been felt that security forces and the Maosts are being more accountable than they were in the past. The present changed political scenario has contributed a lot for this result. It has boosted the political parties, civil society, Nepal Bar Association, NGOs and other occupational organizations to combat against impunity.
- The activities have been fruitful to draw the attention of all the stakeholders to develop public interest campaign. Political parties have given their words to pass the Impunity Bill from the Parliament. Likewise, they have made their commitment to investigate incidents of unlawful killings where the security forces are involved. Positive result is seen at the project implementation level. All the stakeholders including political parties have stressed on the issue of ending impunity.
- The reason behind better results is the changed political condition and the downfall of King's tyrannical rule. Furthermore, the political agreement between seven party alliance (SPA) government and the rebel, CPN (Maoist) and the comprehensive peace accord for resolving 12 years long internal armed conflict of Maoist civil war in the country have yielded hope of positive and friendly environment to implement the project.
- We believe that increasing trends of escaping justice will definitely decrease in the context of the current political improvement. The practices of the court martial within Nepalese Army and action against security personnel in the Nepal Police and Armed Police Force shows that the security forces are also found sincere for the protection of human rights. Before 24 April, 2006 (11 Baishakh, 2063), the risk assumptions stated in logframe existed but now we see very few risks that might have negative impact for the implementation of the project activities.
- Our observation has found that the project has achieved foreseen goals. For example, the Task Force has been formed with involvement of the stakeholders; attention of the stakeholders has been drawn towards public campaign against impunity; project has succeeded to launch advocacy and create pressure against impunity; and draft legislation is in the process of finalizing.

- Civil society is more encouraged to write and advocate against impunity. The target groups are being able to know the national and international provisions regarding the punishment to the people responsible for unlawful killings. The reports and documents prepared under this project revealed the weakness of the government and the security forces in ensuring rule of law.

3. What has been impact on both the target group and the target country(ies) so far?

- Impact of the project is good and widespread in the target group and the target country. Target groups are being familiarized about the national and international practice regarding problem of impunity and its possible solution in the Nepalese context.
- All the stakeholders have taken the issue of impunity as a national problem and are found determined to end it.
- Stakeholders from all levels and sectors have started to put forward their demand with the government to end impunity in the country. The efforts of target groups to conduct campaign advocacy, policy dialogue and debate have pricked the indifferent nature of the policy makers and the government authorities.
- Impact of media mobilization has supported immediate relief to some family members of the victims of unlawful killings.
- Provisions to combat impunity have been incorporated in the Interim Constitution of Nepal 2063, the report of Rayamajhi Commission and the commission formed to investigate the atrocities during Janandolan II.
- Voices are raised in favour of democratizing Nepalese Army to address the impunity and serious HR crimes.
- Many human rights organizations and defenders have been united in the initiative to combat impunity. Conflicting parties of the past have made their explicit commitments to respect human rights through Comprehensive Peace Agreement.
- Many cases are being filed as PIL on the basis of the cases filed under this project in the Supreme Court demanding the past atrocities including disappearances be declared as crimes against humanity and punishment to the perpetrators who have enjoyed impunity.

4. How and by whom have activities been monitored/evaluated? Please summarize the results of the feedback received, including from the beneficiaries.

The activities of the project is being monitored / evaluated by Project Implementation Team. Each month, the meeting of Project Team prepares progress notes of project action. Project Coordinator coordinates the overall monitoring and evaluation. This monitoring is centred on the output level of the indicators of logical framework. Project Team is taking the feedbacks out of the monitoring for further performances.

Administrative Officer tables the report on the monitoring of all the details of monthly expenses to Project Team and FOHRID Executive Committee. Final evaluation of the project will be undertaken by a professional expert.

Feedbacks from the Beneficiaries

- Campaign against impunity should be forwarded with long term strategy. A network should be established to initiate this campaign throughout the country.
- Campaign against impunity should be taken to the local level. Grassroot people should be sensitised widely in this issue. Posters and awareness materials should be produced and disseminated adequately for this purpose.

- FOHRID must continue its fight against impunity. This will ensure further use of the mechanism and movement already established by the organization. FOHRID must be serious to this.
- Campaign against impunity should focus political parties, policy makers, bureaucracy, business people and general public.
- Ending of impunity is impossible until we bring the security forces and rebels within the framework of legal process as impunity has reached its climax due to armed conflict.
- Effective law should be enacted for the abolishment of impunity and the existing security related laws should be reviewed and amended.
- Impunity has become a major obstacle for democracy strengthening, conflict management and human rights protection. So, impunity is to be effectively intervened on behalf of civil society.
- Society is to be sensitized about impunity. For this, resource materials should be prepared in simple language targeting the general public and disseminated among stakeholders.
- It is appreciated that FOHRID has started to intervene focusing the issue of "Impunity". It needs to be continued and FOHRID should lead this campaign with long term strategy and action plan.
- The existing situation of impunity in the initial phase is to be considered in the context of violations of international humanitarian law and human rights laws in Nepal. Impunity can be controlled by implementing effectively the international human rights instruments ratified by Nepal at the domestic level. Ratification of Rome Statute 1998 is the first and the most important condition to eradicate impunity prevalent in the country. So, FOHRID should bring the programs to pressurize the government to sign and ratify the Rome Statute.
- The programs creating public pressure for combating against impunity must be extended to local level. Specific programs should be conducted to pressurize in order to punish the perpetrators of people's movement 2046 (1990) and people's movement II 2062/63 (2006). In course of combating against impunity, FOHRID should work as a watchdog in the implementation of the provisions to investigate the past human rights abuses, mentioned into the recently signed documents i.e. historic agreement, comprehensive peace accord, Interim Constitution of Nepal 2063 and strongly lobby for their execution.
- Impunity has been a national problem and it has become a challenge to establish rule of law. To end impunity means to guarantee rule of law. To guarantee rule of law, each citizen is to be aware. Likewise, State should protect fundamental rights of the citizens at the highest level. For this, FOHRID should launch the programs and play a led role.
- In course of legislation drafting, NHRC, Nepalese Army, Nepal Police, Armed Police Force, Ministry of Law, Justice and Parliamentary Affairs, Office of Attorney General and Law Reform Commission have provided recommendations and feedback.
- Police Act 2012, State Case Act 1992, Torture Compensation Act 2053, Public Offences and Punishment Act 2027, Public Security Act 2046 need to be amended.

5. How is your organization ensuring that the results obtained/the lessons learned from the project, are being made public?

The results obtained/ the lessons learned from the project are being made public in the course of project implementation. For this, FOHRID has adopted two methods:

1. Outputs obtained from the programs, while implementing the project, are disseminated immediately via e-mail among the stakeholders.

2. In terms of project implementation, all the study and research are conducted and other relevant national and international resource materials are being translated into Nepali language and published in FOHRID Human Rights Monitor and widely disseminated.
3. We are also updating our website with these information.

6. The success of the project depended on various assumptions (see logframe). Have these influence the results?

The assumptions stated in the logframe have not made significant negative impact in the outcome of the project. As foreseen, political situation has improved, security forces have shown sincerity to respect human rights and the stakeholders are motivated for the campaign to strengthen rule of law and promotion of human rights. Target groups have joined the campaign much more than expected. A congenial environment has been created for broader collaboration among the stakeholders. Political parties and frontliner human rights organizations have made their commitment for collaborative strives to struggle against impunity. Now, there is a changed political scenario. This situation is favourable for the implementation more than the situation when we made the assumptions. Clear improvement is seen in the then conflict situation. Under these circumstances, attention of all the stakeholders is drawn to the deeply rooted culture of impunity in the country. This represents the positive results of the project which will lead towards success.

Nepal is going through peace process and political transformation. Issue of holding elections for constituent assembly is in the limelight. At the political level, we are facing a situation of transitional justice that has created some discomfort in the project execution. This has made the role of state less accountable than expected on the issue of impunity.

E. Partner and other Cooperation

1. How do you assess the relationship between the formal partners of this project? (i.e. those partners which have signed a partnership statement)? Give details about the division of responsibility, transform of expertise, and overall coordination of the partnership.

FOHRID has no formal partners, and no division of responsibilities.

2. How would you assess the relationship between our organization and State authorities in the project countries? How has this relationship affected the project?

A good relationship has been established between FOHRID and State authorities during the project implementation. State agencies are seen positive towards the issues raised in this project. Before 24 April 2006, this possibility was less. Now, State agencies including Ministry of Law, Justice and Parliamentary Affairs, Law Reform Commission, Office of Attorney General, law enforcing authority, political parties and the government have assured to assist in the legislation against impunity. They have also given words to help pass the Impunity Bill from the Parliament and its enactment.

This relationship has imparted a positive impact. It will facilitate for the draft legislation and other activities for project implementation. While implementing project activities, we received positive response from government institutions including Nepalese Army

when we used the letter pad with the logo of EU and FOHRID together in our correspondence.

3. Where applicable, describe your relationship with any other organization involved in implementing the project, e.g. associated partners or sub-contractors.

Formally, there are no associate partners and sub-contractors. However, FOHRID has arranged involvement of organizations and institutions of target groups in some components for project implementation, i.e. draft legislation process, Task Force formation and other advocacy components.

4. How do you evaluate cooperation with the European Commission services?

The cooperation of European Commission is neutral, transparent, practical and result-oriented. Payment process is easy. We found EU very conscious in providing financial assistance and taking initiation in program implementation

F. Others:

1. How is the visibility of the EU contribution being ensured in the project?

To ensure the visibility of the EU contribution in the project, FOHRID has adopted following strategies:

The logo of European Union and "A project funded through the European Initiative for Democracy and Human Rights" have been stated suitably in the letterheads and publications of the project.

A separate project letter head has been prepared in which the logo of EU and FOHRID has been displayed. This letterhead is used in the correspondence related to the project implementation.

"Financial support by European Union" is written in the banner used for public programs including focus group discussions, interaction and consultation meetings. Logo of European Union is displayed on the front cover page of the issues of FOHRID Human Rights Monitor.

2. Has the grant so far helped secure new sources of funding for the project? Please give details.

This grant has provided a ground to seek new sources of funding to work on the issue of impunity but we have not been able to secure any fund till now. Though we did not receive direct grant from others to conduct the activities of this project, some of them were accomplished in joint collaboration with other organizations and institutions including NHRC and Amnesty International Nepal. They also shared financial burden, to some extent, to implement the project activities.

Lesson learned from this project is that fund can be approached on this issue with other donor agencies. It is found that this project will help attract other financial assistance to some extent. Budget inadequacy was felt for draft legislation under this project as the changed political scenario encouraged us to extend the discussions on draft legislation to all the 5 development regions. We have submitted separate proposals to local donor agencies in this regard. So far, we have not received any confirmation for funding.

3. Please add any further information that would help the commission to make a balanced assessment of the project to date.

We would like to mention two types of sources of information for a balanced assessment of the project. First, the documents of activities prepared under the project, separate reports of project activities, activities of Task Force, documents pertaining to the cases filed under this project, Impunity Bill, press statements, news clippings and the publications of the project etc. Likewise, electronic press release, email messages will help further for the assessment. Second, information can be collected from representatives of target groups who participated in the program activities and from their organizations through opinion survey.

4. Do you have any objection to this report being published on the EIDHR website? If so, please state your objections here.

We have no objection to this report being published on the EIDHR website. Rather we would like to make special request to display this report in the EIDHR website.

Name of the person responsible for the project: Raj Kumar Siwakoti

Signature:

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