

EU Country Updates on Human Rights and Democracy 2018

Federal Democratic Republic of Nepal

1. Overview of the human rights and democracy situation: Confirming the consolidation of democracy, a new government elected with a wide majority in Parliament took office in February 2018 following the successful organisation of local, regional and federal elections in December 2017 and January 2018. The Government's two-third's majority in Parliament gives a real prospect for long-term stability and governance reforms.

While the promulgation of the 2015 Constitution progressed in 2018, a significant gap still exists in the implementation of the constitutional and legal provisions on human rights. In September 2018, a total of 16 bills on fundamental rights were passed, but the implementing regulations still need to be drafted. In addition, new criminal and civil codes are being enforced since August 2018 which criminalise *inter alia* Chhaupadi, the dowry system and sexual harassment. On the other hand, the ongoing challenge of violence against women and the inability of the state organs to apprehend offenders and provide justice were highlighted by the case of the rape and murder of 13-year old Nirmala Panta. Furthermore, the newly applied Criminal Code states that presenting religious belief publicly with any intention of conversion is a crime, which makes religious minorities in the country vulnerable.

Twelve years after the end of the armed conflict and the signing of the peace agreement, the transitional justice process is still uncertain. Following a 2015 ruling of the Supreme Court requiring a reform of the transitional justice law, the government presented an amendment to the law in June, but little progress has been made since then. Critics stress that the draft has not been consulted widely with victims and contains provisions for disproportionately lenient sentencing, favouring perpetrators. The transitional justice Commissions created by the current law have so far not been effective and were not provided with the necessary human and economic resources to function properly. The mandate of the Commissions was prolonged until February 2019, but their fate beyond that date remains unclear. Furthermore, the release of former Parliament member Balkrishna Dhungel, who was convicted of a conflict-era murder in 2010 but only arrested in October 2017 by a presidential pardon in May 2018, after serving close to eight years of this 20 years sentence, served as an illustration of the problem of impunity.

2. EU action - key areas focused on the Rule of Law, gender equality and non-discrimination, economic and social rights, as well as children's rights.

3. EU bilateral political engagement: In 2018, the EU Delegation continued to actively participate in the work of the International Development Partners' Group, the Gender Equality and Social Inclusion working group, the Election working group as well as the EU Human Rights Defenders Working Group and Human Rights Core Group with all these mechanisms providing fora for looking into and assessing the human rights situation, including transitional justice matters. The EU Delegation in Nepal organised different events at the occasion of the 70th International Human Rights Day and a 16 day-long campaign on violence against women addressing the issues of gender equality and violence against girls and women.

4. EU financial engagement: The EU Delegation, together with Member States, supported a large number of projects contributing to the priorities of the Human Rights and Democracy Country Strategy 2016-2020.

In the area of rule of law and governance, the EU Delegation *inter alia* organised various trainings for project partners incorporating a rights-based approach, which is now streamlined in all processes. Furthermore, the strengthening of the institutional capacity and delivery of the Election Commission through the UNDP Election Support Programme continued and a new project on strengthening the capacity of the National Human Rights Commission was signed. Three projects for a total of EUR 3 million signed in 2018 will contribute to strengthening governance, accountability, the participation of marginalised communities and to fostering their socio-economic opportunities in provinces 2, 6 and 7.

Regarding the focus on gender and children's rights, the EU Delegation carried out various projects in partnership with UN Women and other CSOs. Projects implemented for example by Action Works Nepal and Child Workers in Nepal focused on gender issues, notably physical and psychological integrity, economic empowerment and political participation. Moreover, the delegation supported financially (EUR 75.000) the review phase I of Nepal's National Action Plan on UNSCR 1325 and 1820 and reflected the outcomes in phase II. The EU Delegation also supported a nutrition project contributing to the wellbeing of children and particularly of girls from the marginalised communities in the country.

Relating to non-discrimination and economic and social rights, a project was funded on combating caste based discrimination contributing to the strengthening of the legal framework related to equality and non-discrimination as well as to enhancing effective access to justice for victims. Furthermore, the EU Delegation together with the Finish Agency Finnida implemented the WAVE project focusing on ensuring water access and sanitation for communities in rural areas.

5. Multilateral context: Since Nepal has been elected as a member of the Human Rights Council for the term 2018-2020, the new Government outlined its foreign policy priorities as creating an enabling environment for the enjoyment of human rights by attaining economic development and providing means of implementation of human rights obligations.

The UN Special Rapporteur on violence against women Dubravka Šimonov visited Nepal in November 2018 to look particularly into the systematic causes of gender-based violence against women and the situation faced by those who encounter multiple and intersecting forms of discrimination and violence. While she acknowledged the progress made in developing a legal framework to protect women's rights, she noted that considerable implementation gaps still exist including on outlawed practices such as Chhaupadi and highlighted the discriminatory provisions in the Citizenship Act. Furthermore, she qualified the rape and killing of Nirmala Pant is "a test case" for the government.

The UN Special Rapporteur on the Human Rights of Migrants Felipe González Morales visited Nepal in early 2018, recommending a strict implementation of the provision of sending migrant workers on zero investment, legally defining the role of manpower agencies, middlemen and agents and adopting a zero tolerance policy against those abusing migrant workers.