



Human Rights Watch  
Oral Statement

7 June 2011

Item 6 – Adoption of the outcome of the UPR of Nepal

Human Rights Watch welcomes the UPR report on Nepal, which includes important recommendations concerning Nepal's commitments to adopt a comprehensive and inclusive constitution, to ensure justice for victims through the adoption of a Truth and Reconciliation Commission and a Commission of Inquiry on Disappearances as stipulated in the 2006 Comprehensive Peace Agreement, and to ensure that perpetrators of human rights violations, both past and present, are brought to justice in proceedings which meet international standards of fairness.

Unfortunately, the government's pledge to adopt a new constitution by May 2011 has remained unfulfilled. On 28 May, the Constituent Assembly extended its mandate by three months having been unable to draft a constitution in line with its undertaking. As of now, it remains unclear whether Nepal can fulfil its renewed pledge to draft a constitution within three months. Human Rights Watch points out that the original deadline for the new constitution was May 2010. Nepal's political parties have spent the better part of the last year trying to form a government. The Government of Nepal should ensure as a matter of priority that political disagreements stop getting in the way of the important task of constitution drafting, and that the people's demands for meaningful inclusion do not fall by the wayside.

Similarly unfulfilled is the government's promise to establish an independent Truth and Reconciliation Commission and a Disappearances Commission which would address the needs of victims and witnesses, and account for the missing. There are troubling indications that the hold-up over a Truth and Reconciliation Commission is over the issue of amnesty to perpetrators. The Truth and Reconciliation Commission should not become a judicial body equipped to provide amnesty to those responsible for grave violations of human rights. The authority to determine guilt or innocence rests solely with judicial bodies. A Truth and Reconciliation Commission which divests the judiciary of this charge and the one of pronouncing sentences would amount to an attempt to shield perpetrators from accountability and to further undermine the judiciary.

Most disturbingly, the government has announced that pending cases against alleged perpetrators of serious human rights violations will be withdrawn, citing these charges as being politically motivated. This announcement flies in the face of Nepal's undertakings under the Comprehensive Peace Agreement as well as under its obligations under international law, and severely contradicts commitments taken during the UPR. The government has also continued to ignore directives from the Supreme Court and other lower courts to investigate cases of violations committed during Nepal's civil war, and instead all parties have shielded those named in indictments from investigation and arrest.

Finally, Human Rights Watch praises Nepal for being the first country to include, in the process of a nationwide census, third gender identity as part of its questionnaire. Human Rights Watch welcome that, prior to the census, authorities consulted with leading LGBT groups and received sensitivity training on this issue.

Drafting an inclusive constitution, combating a culture of impunity and ensuring justice for victims and witnesses of Nepal's civil war must remain a priority for Nepal throughout the implementation of UPR commitments. The government must ensure independent, effective and prompt investigations into state officials and non state actors alleged to have committed human rights violations. Nepal's continued culture of impunity must be addressed once and for all. Only meaningful and swift achievements in this area would show a genuine resolve from the government of Nepal to demonstrate its engagement with the UPR.