

Final Evaluation Report

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Project - Initiative to Combat Against Torture and Impunity

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FOHRID

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Acknowledgement

I feel privileged to carry out external evaluation of "Initiative to Combat against Torture and Impunity- Project" implemented by FOHRID Human Rights and Democratic Forum. This was a chance to learn for myself also as it made me familiar with the method and framework of Micro-project under European Initiative for Democracy and Human Rights (EIDHR). Therefore, I believe that this is an excellent opportunity for me in my professional career.

I have found the project useful for the Nepalese society in light of the issues it has raised. The project has enabled target groups to understand torture and impunity as well as Rome Statute of International Criminal Court and Optional Protocol of CAT from a new perspective, in accordance with the international practice. The project has also sensitized the target audience on torture and impunity as a serious challenge to state mechanism, democracy and rule of law.

I thank FOHRID project team for their ready assistance at any time to accomplish this evaluation. The colleagues in the FOHRID team helped to bring the evaluation in the present form. Interaction was conducted with selected representatives of the target groups. The correspondence with target groups, eventwise report, discussion papers produced during project implementation, documentation of expert opinions expressed during programs, reports of project activities, project publications and press clippings are the key source of information for evaluation (Please see reference section below for detail list).

I have tried my best to reflect the factual information; but, if there are any errors, I acknowledge them as mine. The statements made in this report are based on my observation; however, I have utilized the information provided by FOHRID project team. I accept my responsibility to the extent of my involvement as an External Evaluator. The content does not reflect the views of FOHRID or the European Union.

Finally, I thank FOHRID family for providing me this opportunity to carry out evaluation of this project as External Evaluator. The guidance and direction by Chairperson Nutan Thapaliya were invaluable assets for me. I appreciate the cooperation and feedback of FOHRID project team, without which my task would be incomplete. I expect similar opportunities in the future also.

I will appreciate for any creative suggestion and feedback in my endeavor.

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Abbreviations

AI Nepal	-	Amnesty International Nepal
CA	-	Constituent Assembly
CFP	-	Call for proposal
CHA	-	Consortium of Humanitarian Agencies
CPN	-	Communist Party of Nepal
CVICT	-	Centre for Victims of Torture
DAO	-	District Administration Office
EC	-	European Commission
EIDHR	-	European Initiative for Democracy and Human Rights
ESP	-	Enabling State Programme
EU	-	European Union
FGD	-	Focus Group Discussion
FOHRID	-	Human Rights and Democratic Forum
GoN	-	Government of Nepal
HRTMCC	-	Human Rights Treaty Monitoring Coordination Committee
ICC	-	International Criminal Court
ICCPR	-	International Covenant on Civil and Political Rights
ICESCR	-	International Covenant on Economic, Social and Cultural Rights
ICJ	-	International Commission of Jurists
ICRC	-	International Committee of Red Cross
INGO	-	International Non-Governmental Organization
INSEC	-	Informal Sector Service Centre
MoH	-	Ministry of Home Affairs
MP	-	Member of Parliament
NBA	-	Nepal Bar Association
NGO	-	Non-governmental organization
NHRC	-	National Human Rights Commission
NPWG	-	National Protection Working Group
OHCHR-Nepal	-	Office of the High Commissioner for Human Rights-Nepal
OP-CAT	-	Optional Protocol of CAT
PIL	-	Public Interest Litigation
SPA	-	Seven Party Alliance
ToR	-	Terms of Reference
VAW	-	Violence Against Women
WTO	-	World Trade Organization

Final Evaluation Report of Initiative to combat against torture and impunity

1. Introduction

1.1 Funding agency/ies and call for proposal

European Commission established its technical office in Nepal in 1992. After a decade in 2002, the EU established its office in Nepal. However, diplomatic relationship between the two was established already in 1975. An agreement for bilateral cooperation was reached between Nepal and EU in 1996. Under this cooperation agreement, a meeting of the high level joint commission is held every other year. EU member countries and the European Commission coordinate policy and cooperation programs for Nepal. Nepal has been enlisted in the cooperation list of EIDHR since 2001.

The European Union is founded on the principles of liberty, democracy, respect for human rights and the rule of law. Recognizing the vital contribution made by non-governmental organizations (NGOs) to the promotion and protection of these principles, the European Initiative for Democracy and Human Rights (EIDHR) was created by an initiative of the European Parliament in 1994 to promote human rights, democracy and conflict prevention in countries outside the EU, by providing financial support for activities supporting these goals.

Nepal is in the list of 68 target countries for EIDHR since 2001. This program was initiated to provide consultation and cooperation to the human rights defenders, to assist the independent and fair media and strengthen the concept of rule of law. EU has extended its financial cooperation in Nepal in the fields of community based awareness program, radio and television campaign against discrimination, national human rights education program, legal aid of Nepal Bar Association at the district level and working area expansion and capacity building of NHRC.

1.1.1 EIDHR goals and strategies

Goals of the EIDHR call for proposals for 2006 are founded on the principles of liberty, democracy, respect for human rights and the rule of law. Recognizing the vital contribution made by NGOs to the promotion and protection of these principles, the European Initiative for Democracy and Human Rights (EIDHR) was created by an initiative of the European Parliament in 1994 to promote human rights, democracy and conflict prevention in countries outside the EU, by providing financial support for activities supporting these goals.

Likewise, the strategy for the EIDHR is based on its ability to promote EU human rights and democratization objectives. Compared to other instruments of the European Commission, the EIDHR:

- is complementary to the EC programmes carried out with governments in that it can be implemented with different partners, and in particular NGOs;
- can be used without the consent of the host government, or where the main EC programmes are not available for other reasons, such as their having been suspended;
- is an essential complement to the objectives of the EU's Common Foreign and Security Policy in the fields of human rights, democratisation and conflict prevention. In some regions, it provides the only legal base for certain activities including the promotion of political and civil rights, election observation and conflict resolution initiatives.

1.1.2 Objectives of the programme and priority issues for 2006

The general objective of the Micro-projects programme is to provide small-scale financial support for initiatives designed to promote human rights, the rule of law and democracy. The following thematic priorities have been identified for the present call for proposals, all of which are equally ranked:

Campaign 2: Fostering a culture of human rights

- Supporting actions aimed at promoting and respecting human rights and democracy, including through education, training, awareness-raising and advocacy
- Strengthening the capacity of civil society organisations to engage in these issues, including local and national decision-makers, judicial, legal, prison and police officials, and the general public
- Strengthening the capacity of civil society to enhance respect for human rights and prevent human rights violations, especially as they relate to the rights of marginalized or vulnerable groups, as well as **torture** and supporting for the rehabilitation of torture victims
- Promoting the rights of women, Dalits and Ethnic communities including the equality treatment in all public sphere; awareness raising and advocacy against trafficking in women and children and promoting the rights of human rights defenders.
- Supporting the monitoring and awareness-raising activities including the tracking of the supply of torture instruments, research into, and denunciation of, torture practices, promotion of the signature, ratification and implementation of the Optional Protocol to the UN Convention against Torture and public awareness-raising.
- Support for **rehabilitation activities for torture victims** – including psychotherapy, medical care, social rehabilitation and institutional strengthening of rehabilitation centers.

Proposals submitted under Campaign 2 must contribute directly to one or more of the thematic priorities identified under this campaign. The above priorities are equally ranked.

Campaign 4: Advancing equality, tolerance and peace

- Supporting activities aimed at promoting the **equal rights and treatment** of persons and **people belonging to minorities** irrespective of racial, ethnic or caste origins.
- Countering any form of discrimination in the treatment of minorities in securing respect for the rights of **indigenous peoples** and enhancing fair participation of all ethnic groups at all levels of decision-making.
- Reinforcing the engagement of civil society in **conflict prevention and resolution** with a particular contribution to the conflict prevention and resolution.
- The campaign will also develop the capacity of anti-discriminatory bodies and support projects to promote intercultural and interethnic understanding, including by encouraging the development of community groups and positive media engagement. **Enhancing the intercultural and interethnic understanding** including enhancing information flows, providing specialized workshops and supporting network building of indigenous peoples' organizations at national and regional level.
- The campaign will encourage the adoption of anti-discrimination legislation and policies at national level and the removal of discrimination in access to employment, education and other rights.

Proposals submitted under Campaign 4 must contribute directly to one or more of the thematic priorities identified under this campaign. The above priorities are equally ranked.

In line with the European Commission's policy on gender mainstreaming, proposals submitted must specifically integrate a **gender perspective** and include references to the impact of their activities on both women and men. The gender aspects of any application will be specifically considered as part of the evaluation.

The Micro-Projects Programme is administered by the European Commission Delegation

to India, Bhutan and Nepal. The 2006 Call for Proposals is the fourth of this kind, after the first, second and third Call was launched in 2003, 2004 and 2005 respectively. Five, four and seven projects were funded following the first, second and third call respectively. FOHRID participated in the 2006 Call for Proposals and got an opportunity to implement this project under evaluation.

1.2 Implementing agencies

FOHRID Human Rights and Democratic Forum was established in 2001. It is a non-government, non-profit making, non-political, independent, public interest organization. It has been registered in the District Administration Office, Kathmandu with Regd. No 185/058-059. It is affiliated to Social Welfare Council, Government of Nepal on 9 November 2003 (BS 2060/5/25) with the affiliation no. 15269 and it has been working in close association with national and international non-governmental organizations. Economists, political scientists, advocates, senior human rights defenders, anthropologists, researchers, development experts are involved in this organization.

FOHRID's Mission: As a dynamic organization, FOHRID aims to materialize democratic process and culture through protection, promotion and respect of human rights by planning and implementing advocacy, education, conflict resolution, networking, collaboration and capacity building activities according to its faith, commitment and vision.

FOHRID's Modality: FOHRID has developed a modality over the years of its activities and experiences in grassroots and local level. It conducts study, research, organizes seminar, workshop, interaction, public hearing and symposium to accumulate knowledge and professional skills for future action and intervention. Plan of intervention or action are mainly implementation work at primary stakeholder or grassroots level of beneficiaries, which are meant to organize the target groups for their own needs. This is the modality of FOHRID: RESEARCH–ACTION–ORGANIZATION model.

Major issues of concern / objectives of FOHRID are as follows:

- Protection, promotion and respect of human rights according to the Universal Declaration of Human Rights-1948 and other relevant international instruments,
- To strengthen democratic process and culture through institutional capacity building at all levels,
- To take initiatives to end impunity for protection and promotion of human rights and strengthening rule of law.
- To initiate campaign for the ratification and implementation of Rome Statute 1998 of ICC at the domestic level.
- To initiate campaign for immediate signature and ratification of other UN Conventions and Optional Protocols by Nepal.
- To take initiative for poverty alleviation through conducting constructive activities for community development by identifying, managing and mobilizing natural resources.
- To establish culture of peace and conflict management.
- To enhance institutional infrastructure and capacity building of FOHRID.

Principal achievements in the past three years:

- a) Development of an organization with knowledge and skills as well as the development of membership representing the resources and work on democracy and human rights related humanitarian concerns.
- b) An identity of a national level non-governmental organization.
- c) An advocate for democracy, peace and human rights with focus on diversity, fundamental rights and freedom.
- d) Development of quality in work.
- e) Linkage with national and international organizations and resources.

Field(s) of activity:

Principal thematic approaches of the organization are:

- Co-ordination, facilitation and networking
- Knowledge center
- Representation, advocacy and policy debate
- Documentation, translation, publication, dissemination
- Promotion of professional standards

FOHRID has become a service provider in the non-profit sector. The benefits of its activities are directed at:

- People in need regardless of ethnic, gender, political or religious backgrounds;
- Promotion of dialogue for inclusive democracy and non-violent conflict resolution;
- Provision of empowerment and assistance through community based participatory approach in the protection and promotion of inclusive democracy, peace and human rights;
- Provision of durable solutions for those affected by conflict; and
- Promotion of the principle of service and professionalism in the non-profit sector.

So far, FOHRID has successfully implemented two projects with funding from the EU under EIDHR. The first project was Ending unlawful killings and impunity project and the second was Initiative to combating against torture and impunity. This document evaluates the implementation status of the second project. Likewise, FOHRID accomplished Campaign for constituent assembly and support of action aid Nepal Advocacy for social, economic and legal justice for victims of conflict through truth and reconciliation commission with the funding from the ESP. Besides, FOHRID has successfully implemented several other projects including Initiative for Democratic and party reform, Initiative for vulnerable groups Regional Initiative for the rights to sustainable livelihood and the enabling of social and political participation, Intensive Campaign in the form of National Protection Working Group (NPWG), Campaign of FOHRID on WTO and globalization, Publication and dissemination, Study and research. In 2006, FOHRID established an intensive networking of the human rights and civil society to integrate and strengthen campaign against impunity and for ratification of the Rome Statute. This coalition under the banner of Citizen's Task Force to Combat Impunity has the involvement of 52 organizations and 113 individual campaigners from the human rights and civil society. Apart from these, FOHRID has initiated internship scheme for the national and international students. Interested students studying in the +2, Bachelors or Master's level can be provided internship opportunity for 1 to 6 months.

FOHRID has established working relationship with the Delegation of European Commission in Nepal, Office of the High Commissioner for Human Rights, Six Treaty Bodies of the UN, OHCHR Nepal, ICJ, National Human Rights Commission Nepal, Amnesty International, Grassroots International, Institute for Agriculture and Trade Policy, Minneapolis USA, 3D-Trade, Human Rights and Equitable Economy, Geneva, Enabling State Programme Nepal, CARE Nepal, Action Aid Nepal, Consortium of Humanitarian Agencies (CHA), Sri Lanka, International Centre for Ethnic Studies, Sri Lanka, Magna Carta Institute, Brussels and other national, regional and international organizations in the fields complying with FOHRID vision and mission.

The office infrastructure and employees of FOHRID is satisfactory. Office of FOHRID is situated at 196/14, Radhe Marga, Dillibazar, Kathmandu. Currently, there are 17 officials and staff members at FOHRID. Ten of them are working in full time basis in different areas; four are working in the part time basis and three are volunteers. There is small resource center, enough infrastructure, equipment and space in the office to work for the above team.

1.3 Project background

FOHRID won funding for the project proposal entitled Initiative to combat against torture and impunity under 2006 Call for Proposals of EIDHR. Total duration of the project implemented from January 2007 to December 2008 was 24 months.

This project was designed under the theme of Campaign 2, fostering the culture of Human Rights under Micro-Projects Programmes, Reference: EuropeAid/EIDHR 2006/C/G/NP which covers the following thematic priority areas:

- Supporting actions aimed at promoting and respecting human rights and democracy, including through education, training, awareness-raising and advocacy
- Supporting the monitoring and awareness-raising activities including tracking of the supply of torture instruments, research into, and denunciation of, torture practices, promotion of the signature, ratification and implementation of the Optional Protocol to the UN Convention against Torture and public awareness-raising.

This project aimed to combat against torture and impunity for the protection and promotion of human rights, rule of law and democracy. The project was implemented in the Kathmandu valley (Kathmandu, Lalitpur, Bhaktapur) and 4 development regions in Biratnagar, Pokhara, Nepalganj and Dhangadhi.

Abstract of the project was Initiative for combating against torture and impunity; ratification of Rome Statute 1998 and Optional Protocol of CAT 2002 is necessary for promotion of human rights; rule of law and improving the democratization process in Nepal.

Likewise, **Milestones / key indicators** of the project were Campaign position, commitment of the government, record of the discussion at the Parliament and the ratification of Rome Statute 1998 and the Optional Protocol of CAT 2002, draft legislation document and improved legislation, Resource Book on Rome Statute and ICC 1998 and other project publications, Government's action against the perpetrators involved in the crime of torture, disappearances and crime against humanity, torture will be defined as a criminal offence, long term strategy plan and Final Project Evaluation Report.

1.4 Project objectives

Overall objective(s)

1. To combat against torture and impunity for the protection and promotion of human rights, rule of law and democracy.
2. Protection, promotion and respect of human rights according to the Universal Declaration of Human Rights – 1948 and other relevant international instruments.
3. To take initiative to end impunity for protection and promotion of rule of law.
4. To initiate campaign for ratification and implementation of Rome Statute 1998 of ICC at the domestic level.
5. To initiate campaign for immediate signature and ratification of other UN Conventions and Optional Protocols by Nepal.
6. To establish culture of peace and conflict management.
7. To strengthen democratic process and culture through institutional capacity building at all levels.
8. To enhance institutional infrastructure and capacity building of FOHRID.

Specific objective

1. To build a public interest campaign against torture and impunity for improvement of the state of rule of law, democracy and human rights culture.
2. To initiate public advocacy on the need of improving Nepalese criminal justice system to check torture and impunity.
3. To sensitize target groups on the importance of Rome Statute 1998 and Optional Protocol of CAT 2002 and to create a pressure on government for signing, ratifying and implementing the same.
4. To prepare a Resource Book on the Rome Statute and ICC in order to impart

knowledge on the fundamentals of the instruments to the target groups.

5. To draft legislation relating to the rights and compensation for the victims of torture based on the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985 and CAT.

1.5 Project activities

There were 5 major objectives of the project. Brief details of the activities are as follows:

1. Campaign and advocacy:

Campaign and advocacy was the major component of this project. This activity was implemented to achieve all the 5 specific objectives determined by this project. Following specific activities were implemented to attain the results of these actions:

- 1.1 Public meeting and demonstration: 4 events
- 1.2 Interaction with target groups: 3 events
- 1.3 Lobbying vis-à-vis legislative organs: 6 rounds

2. Preparation of Resource Book on Rome Statute and ICC:

Second major activity of this project was to prepare Resource Book on Rome Statute and ICC in Nepali language. The issues incorporated in this resource book were ICC and its structure; Assembly of State parties; Presidency; Chambers and creation of the Court; Crimes Prosecuted by the Court; Jurisdiction and admissibility; General principles of criminal law; Investigation and pre-trial procedure; Trial and appeal; Punishment and the rights of victims; Intervention practice of the Court. The above issues were accommodated as major chapters and issues for the Resource Book.

3. Draft legislation / recommendation:

This activity was chosen to draft a new law to replace the existing Compensation Relating to Torture Act, 1996. This was required because the Compensation Relating to Torture Act of 1996 is incomplete to ensure full fledged justice for the victims of torture. This Act is not sufficient to defend and compensate the victims and ensure justice to them. Hence, it was felt necessary to formulate a new law relating to the rights and compensation for the victims of torture based on the UN Declaration of Basic Principle of Justice for Victims of Crime and Abuse of Power 1985, CAT 1984 and the Optional Protocol of CAT 2002.

3.1 Consultation meeting:

Consultation meeting was designed as complementary to the draft legislation mentioned in the Activity 3 above. The consultation meeting was designed to involve maximum number of stakeholders in the draft legislation process and establish their ownership in formulation of Bill Relating to Torture 2065. Out of 5 development regions, 4 events of consultation meetings were held with the target groups of non-government sector at the regional level outside Kathmandu and central development region was covered by holding national level consultation in Kathmandu. The regional level meetings were conducted in Biratnagar, Pokhara, Nepalganj and Dhangadhi on different dates.

4. Publication and dissemination:

The issues raised by this project were very much sensitive and necessary in the present Nepalese context. The target groups did not have adequate information and knowledge in this regard. Therefore, the activity of publication and dissemination was selected.

Under this activity, following publications were brought out under this action.

- Resource Book on ICC and Rome Statute – 2500 copies
- International Instruments Developed Against Impunity – 2000 copies
- Draft Bill Relating to Torture, 2065 (Nepali & English) – 1200 copies
- Four issues of Special Project Bulletin of FOHRID Human Rights Monitor (Nepali & English) – 4000 copies
- Action plan document on implementation of Rome Statute and Optional Protocol of CAT – 2000 copies
- Final programme report (Nepali & English) – 500 copies

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

A long term intervention strategy plan of action was prepared at the end of this activity. This is because the central focus of this project was the implementation of Rome Statute and Optional Protocol of CAT to eradicate torture and impunity. Even after ratification of Rome Statute and Optional Protocol of CAT, the role of human rights organizations remains important. Stronger campaign is necessary to implement them at the domestic level. This will ensure continuation of issuewise intervention for signature and ratification of said instruments and their implementation at the domestic level.

This activity seems to be designed with the assumption that the Rome Statute and OP-CAT would be ratified within the project period. The activity had aimed to formulate a clear plan of action to work in the systematic and organized way for domestication of these instruments after their ratification. However, the Rome Statute and OP-CAT could not be ratified within the project duration. Hence, the action plan was prepared focusing activities in two ways. The first is the activities aimed to launch a campaign to ensure ratification of the Rome Statute of ICC and OP-CAT; and, the second is preparation for domestication of these instruments.

1.6 Project target groups

Target groups of this project were divided into following three levels:

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).

1.7 Expected results of project

The expected results of the project as mentioned in the Logical framework were as follows:

1. Public interest campaign will be established against torture and impunity and its nationwide replication.
2. Target groups shall realize the need of an effective law to check torture and impunity and they will start to work for improving it.
3. Government will sign, ratify and implement the Rome Statute and Optional Protocol of CAT.
4. Target groups will express and claim the need to sign and ratify Rome Statute and Optional Protocol of CAT and its implication for fostering HR culture and rule of law.
5. A Resource Book on ICC and Rome Statute will be prepared, published and disseminated widely.
6. Draft legislation on rights and compensation for the victims of torture will be prepared and passed from the Parliament.
7. This public interest based initiative will impart multiplier effect in the long term.
8. Formation of long term strategy plan for implementation of Rome Statute and Optional Protocol of CAT at the domestic level.
9. Torture will be defined as criminal offence.
10. Institutional capacity building of FOHRID.

2. Evaluation methodology

2.1 Literature and secondary information review

The evaluation study was based on both qualitative and quantitative assessment of the key elements of the project documents and principal risk assumptions. The evaluation team made an extensive review of relevant project documents, publications as well as results and impact that describe the government's policy strategy and priority with regard to the key sectors/sub-sectors and thematic areas are covered under the project scope. Based on the ToR and discussions with the project staff of FOHRID, the evaluator focused on a limited number of selected target groups rather than meeting with all the stakeholders. The evaluator had interaction with few stakeholders, target beneficiaries and communities in the project area. This was made possible with an excellent support by the project staff, trust, and rapport they were able to establish with the local stakeholders. The evaluation exercise primarily relied on a systematic collection of information from project staff and stakeholders focusing on the project characteristics, activities and effects.

Content analysis method or the document method was applied to collect secondary information related to the project activities and policy environment for the projects. Many secondary sources such as internal evaluation and monitoring report, activity reports, financial statement, actual expenditure reports, audit reports, email correspondences with EU, project final document and all other project related documents have been reviewed and the content has been analyzed. For these various sources of information, document method has been applied as the key tool for the collection of secondary data. Document method is essential tool for secondary data collection. Denscombe (1999) writes in this regard, "Quite apart from the literature review there is another way in which documentary sources can be used for the research. Rather than acts as an introduction to the research they can take on a central role as the actual things that is to be investigated. In this sense, document method can be treated as a source of 'data in their own right' - in effect an alternative to questionnaire, interview or observation" (Denscombe 1999, pp 156-59).

2.2 Questionnaire and interview

FOHRID project staff and some project stakeholders were interviewed to make the evaluation process fruitful. Oral interview was conducted with the stakeholders.

Questionnaire is also important tool for the data collection. All FOHRID project staff have administered by the questionnaire for the information collection. Information was gathered through a separate questionnaire for the project staff. This contributed to make the evaluation successful.

This method has been applied for interview. Program Manager and official staff of project have been interviewed openly and wide variety of information has been collected. Limited number of representative of target groups have been interviewed. Therefore, maximum amounts of data have been collected by means of interview providing comprehensive insights on the subject matter.

3. Assessment and evaluation on key factors/aspects/dimensions

3.1 Project Relevancy

3.1.1 National context

This project entitled Initiative to combat against torture and impunity was designed in 2006. The internal armed conflict was going through the phase of peaceful settlement at that time. The country was heading towards institutionalization of democratic system after reinstatement of the parliament through the success of Jana Andolan II of April 2006. Under these circumstances, this project was designed to address the problem of torture and impunity from the policy making level. Major objective of the program was to formulate Bill Relating to Torture, 2065 to address the inadequacy of the Compensation Relating to Torture Act, 1996 and to launch campaign for ratification of the Rome Statute and OP-CAT to address the widespread problem of impunity. The project aimed to initiate advocacy to set in place legal remedy to address the issue of impunity. The

objectives of the project made efforts to address the lapses existing in the criminal justice system in Nepal and to end the widespread practice of torture and impunity.

This was relevant in the Nepalese context because Nepal had become state party to the CAT in 1990. As a state party, it was necessary for Nepal to ratify its Optional Protocol; but the government was indifferent towards this. The project addressed this necessity and raised the issue at the national level. Similarly, the CAT has not been effectively implemented at the domestic level. The Compensation Relating to Torture Act, 1996 brought after intensive pressure from the stakeholders was not effective as it was not according to the standard of CAT. The victims of torture had not received effective remedy and adequate compensation. Under these circumstances, formulation of Bill Relating to Torture was the national need. It was necessary to address this situation at the national context.

Similarly, the incidents of gross violation of human rights law and serious violation of humanitarian law during the internal armed conflict of the CPN-Maoist required to be addressed. The incidents during the armed conflict have contributed to add the gravity of the entrenched culture of impunity in the country. Besides, the internal conflict commenced after the Jana Andolan II on the ethnic and regional ground deteriorated the law and order situation. In such circumstances, it was necessary to expand knowledge on the international principles and practice developed against impunity. Likewise, adoption of the principles of international criminal justice system could play complementary role in the domestic criminal justice system in Nepal. This could also ease the process of bringing the perpetrators that may be involved in the serious violation of human rights in the future. To address all these aspects, this project concentrated its efforts to prepare resource material on ICC, sensitize stakeholders, bring them under one umbrella and make efforts for ratification of ICC by Nepal. The project addressed the perceived needs of the country at the time of project designing in the following way:

Torture and ill-treatment of detainees during interrogation is routine and systematic in Nepal. UN CAT Committee has paid its concern about the prevailing climate of impunity for acts of torture and ill-treatment and the continued allegations of arrests without warrant, extrajudicial killings, deaths in custody and disappearances. It has also mentioned the lack of an independent body capable to conduct investigations into acts of torture and ill-treatment committed by law enforcing authority. Torture exercised by CPN-Maoist is also extremely inhuman and brutal.

However, the perpetrators often go unpunished and this culture is still continuing. The state of absolute impunity is prevalent and this is the main factor associated with the common occurrences of torture in Nepal. Reason behind the prevailing climate of impunity for the acts of torture is due to absence of effective law at the domestic level and lack of implementation of existing national and international provisions. The trend of torture and impunity in Nepal is viewed in the political context and lack of strict implementation of legislative provisions.

The inadequacy of legal framework in Nepal contributes to an environment of impunity. Impunity is widespread and it has resulted in the failure of the rule of law. The atrocities and brutalities during the democratic movement in Nepal were heinous, but the subsequent governments did not take any action to punish the human rights violators. Under these circumstances, widespread torture and impunity are the main reasons for the deteriorating human rights situation, rule of law and democracy in Nepal.

Appropriate measures have not been taken to protect all the members of society from the acts of torture and impunity. Persons held incommunicado are not released, or charged and tried under due process of law. Necessary measures have not been taken to make the acts of torture as the subject of universal jurisdiction.

Impunity in Nepal has created obstacles in the way of protection and promotion of human rights, rule of law and institutional development of democracy. Perpetrators responsible in the serious human rights violations during the people's movement I & II, Maoist insurgency and many other incidents are still not punished. On the one hand, there is no effective legal system in Nepal to check impunity and on the other hand, the Government has not signed and ratified Rome Statute 1998 and the Option Protocol of CAT 2002. The

existing Compensation Relating to Torture Act, 1996 is unable to define torture as a criminal offence and to ensure the rights and compensation to victims of torture. There is not an effective provision in the current domestic law to define torture as a criminal offence and the draft Criminal Code is not in line with the definition of Article 1 of the Convention against Torture. In order to put an end to the existing trend of torture and impunity, crimes against humanity must be defined in line with the International Human Rights Law. There are several deficiencies in the Nepalese criminal justice system. The canvas of law is very narrow and limited. Many crimes related to human rights violation are not covered by our criminal laws. Therefore, immediate need is to intervene on these issues in order to check the trend of torture and impunity.

The above perceived need was very much logical and necessary in the national context at the time of project designing. In fact, the issue of torture is the major issue of human rights violation and the campaign for ratification of Rome Statute is still contextual.

3.1.2 Targeting the most relevant group

This project was prepared to address the need to accede to the Rome Statute, the instrument of the international criminal justice system, to regulate torture at the national level and reform in the domestic criminal justice system. While looking at the project, its overall objective and specific objectives point to the development goal to combat against torture and impunity for the protection and promotion of human rights, rule of law and democracy. Policy level advocacy and reform is the appropriate method to attain the development goal. In this way, the project must select appropriate target groups according to the project objectives. The target groups are contextual to the project objectives. Lets see how much the project target groups are contextual to the project objectives. Target groups of this project were divided into following three levels:

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.*

In this way, the project had identified the target groups and final beneficiaries separately. It is certain that the efforts of the target groups identified by the project and the knowledge gained by them from the project can contribute to the policy reform. For example, the whole Nepalese society can benefit from the measures of the international criminal justice system and adoption of the forum of the international criminal justice system. In this way, the project aims to the development of criminal justice system to provide remedy to the victims of the incidents of gross violation of human rights and serious violation of humanitarian law which are of concern of the international community. The project has intervened at the policy making level of the state to bring the perpetrators involved in the incidents of human rights violation into justice system and to adopt the international criminal justice system. Outcomes of this intervention shall definitely benefit the victims of torture and violation of human rights who are living a vulnerable life in the society.

As this project aimed to intervene at the policy level, relevance of this project to the most pressing needs of the target groups is as follows:

Political level was selected as target groups as they are responsible for signature and ratification of Rome Statute and Optional Protocol of CAT. They can play crucial role in passing the draft legislation recommendation pertaining to the rights and compensation for the victims of torture prepared under this project. These target groups selected for this

project are the authorized actors responsible to control as well as to end torture and impunity prevalent in the law enforcing authority of the government and the security forces. It is extremely necessary for them to be sensitized and equipped with knowledge in this issue.

Government level was selected considering their role in the implementation of law. They are responsible to implement the legislation prepared and recommended under this project after its passage from the Parliament. They have equally important role to implement the Rome Statute and Optional Protocol of CAT at the domestic level once they are signed and ratified by the Government. Therefore, the target groups needed to be sensitized on the issues raised by this project. They have to thoroughly understand the importance of these issues to promote rule of law, human rights and democracy in the Nepalese context. They need detail knowledge on ICC, Rome Statute and Optional Protocol of CAT for which a Resource Book was prepared under this project. The Resource book is being disseminated widely among the stakeholders.

Non-government sector was selected as inalienable key actors in this project. In fact, the non-government actors must continuously monitor, follow up and pressurize the government to implement the objectives attained through this project. The campaign against torture and impunity is in itself against corrupt politicians, administrators and authorities responsible to implement law. Therefore, the civil society and non-government actors must regularly watch and pressurize against indifference of the State actors in signing, ratifying and implementing Rome Statute and Optional Protocol of CAT 2002 including promulgating legislation against torture and impunity. For this purpose, members of civil society must be sensitized on the issues of impunity, ICC, Rome Statute and Optional Protocol of CAT. This is the fundamental means and need of the public to struggle against impunity.

This project has close relevance with the objectives of the EIDHR. This is because EIDHR aims to promote and strengthen freedom, human rights, democracy and rule of law. Promotion of issue of ending torture and impunity is the point of departure for this. At the time of project designing, the greatest challenges facing Nepal in promotion and protection of human rights were the torture and emancipation through impunity which is common in the state and non-state actors. To make the concerned individuals accountable for heinous incidents of human rights violation including torture by them and to bring them under justice system is the pre-condition for promotion and protection of human rights. This is necessary for strengthening the rule of law and democratization. Therefore, it can be said that the project has relevance with the objectives of EIDHR as well as the target groups. This is because the activities of this project aimed for the issue-based intervention to the trend of torture as well as impunity and escaping justice prevalent in Nepal at the highest level. This has direct relevance with the EIDHR Micro-project Programme Campaign 2 'Fostering a culture of human rights.'

Instead of addressing the problems of a certain community, the project has raised the issue of torture and impunity prevalent as the headache of the overall state. Nevertheless, intervention in the above issues shall certainly impart effect at the community level also. Therefore, there is relevancy between the issues of torture and impunity and the problems being faced by the community.

3.1.3 Relevant issues

It is found that the project has addressed very contextual issues for policy intervention felt necessary in the Nepalese context at the time of project designing. Major relevant issues addressed by the project are as follows:

First, this project has addressed the issues of torture and impunity. It has brought together the human rights and civil society for collaboration in this issue. This has created synergy in the civil society efforts to combat impunity. The collaboration has strengthened struggle against impunity. Second, it has addressed the gaps and lapses in the existing Compensation Relating to Torture Act, 1996 and formulated Bill Relating to Torture, 2065 as its alternate. Likewise, as Nepal has already signed CAT, the project has raised the

issue to ratify OP-CAT. Third, it has addressed the need to ratify Rome Statute of the ICC to adopt the international criminal justice system against impunity. These issues address at the policy level the need to end torture in Nepal and regulate the crimes of international concern including crime against humanity, war crimes and genocide. This effort has established rule of law, promotion of human rights, equal justice, equality and so on in the community. This can ensure effective equality of treatment to the victims in accordance with the principle of non-discrimination. This situation leads to the practice of right to justice for all which is determined by the national policy and program. It guarantees justice for the minority community, religious minorities and victims on equal basis. This helps in promoting tolerance and inter-community understanding. In this way, this project has launched advocacy for justice to the deprived and victims.

On the basis of the above, the present project was contextual in the Nepalese situation. This is because, Nepal faced armed conflict in the past. The armed group of the past, CPN-Maoist has come to the power as the largest political party. However, the armed insurgency still continues through several other armed groups and the people are still being victimized. Under such circumstances, it is still contextual in Nepal to formulate law against torture, launch campaign for ratification of Rome Statute and OP-CAT, to create awareness on the international instruments developed against impunity and to sensitize and convince general stakeholders on the ICC for promotion of rule of law and promotion and protection of human rights.

For its implementation, the project adopted the principle of non discrimination and effective equality of treatment. The groups who are deprived in the social, economic and public life have been involved in the project implementation. For example, the project launched advocacy for justice to the victims of armed conflict. The issues raised and activities implemented imparted effect in the national policy and program. However, the project did not address the rights of a certain minority group. Reason is that the project has limited itself to the issues of policy level reform and adoption of international criminal justice system at the policy level.

3.1.4 Modalities of project

The project has brought together stakeholders from different levels at one place to address the issues identified by the project. Especially, diverse levels of stakeholders were brought together in the process of drafting Bill Relating to Torture. A loose coalition of human rights and civil society was formed to forward the campaign for ratification of Rome Statute 1998 and Optional Protocol of CAT 2002. The policy makers, law enforcing agencies, non-governmental institutions and general stakeholders were involved in this campaign. They have come to a consensus regarding need to ratification of these instruments. The project has been successful to prepare Civic Action Plan for accession and implementation of Rome Statute and Optional Protocol of CAT compiling views of all the stakeholders. The participants of lobbying, interaction and consultation meetings have provided useful feedback to identify weaknesses in the existing Compensation Relating to Torture Act 1996, to shape Bill Relating to Torture, 2065 and to reform criminal justice system in the country after ratification of Rome Statute. In this way, measures for resolving problems have been identified by drawing attention of the stakeholders to the issues raised by the project. Hence, an integrated and systematic campaign has been initiated for ratification of Rome Statute and ending impunity.

All the objectives identified by this project seem to be appropriate to attain objectives of EIDHR. Strengthening the justice system and the rule of law is not possible till there is problem of torture and impunity in the society. Liberty, democracy and respect for human rights and the rule of law can be attained by addressing the problem of torture and impunity. Therefore, the activities for policy and legal reform and improvement are appropriate for eradicating torture. The activities such as interaction, workshop, lobbying, draft legislation are suitable for this purpose. More importantly, ratification of Rome Statute, its domestication and reform in the criminal justice system are imperative to attain EIDHR objectives. The activities that ensure collaboration and working relationship between the state and non-state actors is necessary for promotion of rule of law and

protection and promotion of human rights. The activities aimed to strengthen human rights community through litigation skill, knowledge and expertise sharing on the issue of human rights shall impart sustainable impact in the human rights movement of Nepal.

Campaign cum advocacy based programmes are appropriate to address and attain the EIDHR objectives. The project entitled Initiative to combat against torture and impunity was designed from this perspective. However, the scale of outcome is small as the project was of small size. In fact, it is realized that big and more specific projects are required to objectives of EIDHR and make it more fruitful. The methods to address the objectives of the activities should be more effective. The methodology and modality are, among others, awareness building, advocacy, coordination, civil society strengthening, draft legislation and lobbying, dissemination and customization of knowledge, research, study and develop research materials. One or the other of these methods was utilized in implementing activities of this project. The project has applied particular planning technique and modalities. For example, wider participation of stakeholders has been ensured for draft legislation process. General human rights community was involved and mobilized in implementing the public meeting and mass demonstration. An environment has been created so that the organizations participating in the project activities can feel this project as their own. Hence, ownership of the stakeholders has been successfully established in this project. "Projects implemented by FOHRID are transparent. It is important to note that while implementing its activities, FOHRID involves other organizations with the feeling of ownership."¹

This project designed in the campaign and advocacy modality has yielded some specific outcomes. The issue has been addressed by generalizing it. The project has focused ending torture and impunity for respect of human rights and promotion of rule of law. This has been addressed as the point of departure to attain EIDHR objectives. Special planning and documentation has been conducted for programme implementation; for instance, drafting of Bill Relating to Torture, 2065, intensive consultation for campaign for ratification of Rome Statute and OP-CAT, involvement of senior government and political representatives has enabled to address objectives of the project adequately.

This is based on the modality of policy level intervention. The project has raised the issue of policy formation and reform at the national level. The project has been forwarded with the campaign for reform in the legal and criminal justice system alongwith reform in the national justice system in accordance with the standards of the international justice system. The project has emphasized international criminal justice system and made efforts for ratification of Rome Statute. From this perspective, the project does not seem to stress grassroots practice. However, the project has established link with the campaign against torture and impunity at the grassroots level.

Experiences of the grassroots level stakeholders in their fight against torture and impunity have been accommodated during draft legislation process. The efforts and practice of local level organizations, civil society, vulnerable and deprived community in their fight against impunity have been taken into consideration. For instance, the experiences of investigation authority and public and private prosecutors was considered for the civic draft Bill Relating to Torture, 2065 proposed as an alternate to the existing Compensation Relating to Torture Act of 1996. Similarly, the experiences of the victims and feedbacks from the local campaigners were accommodated in the Bill Relating to Torture 2065. The working relationship of the human rights and civil society and national level policy makers was sought and ensured for campaign for ratification of Rome Statute and Optional Protocol of CAT. The draft legislation process and interaction programs were accomplished by bringing together the stakeholders from the political level, government level and non-government level. This has strengthened working relationship between all these stakeholders. It has made the working relationship for the common identified goals unbreakable. In this working relationship, the political and government representatives represent the policy formation level and the non-government level

¹ Advocate Bishnu Basyal, [Nepal Law Campus, Kathmandu](#).

represent the grassroots practice. In this way, the project has established functional link between the national policy and grassroots practice.

This project has been successful to create a meeting point of separate groups with different interests. For example, a strong coalition of the human rights and civil society made the political level stakeholders to come at a meeting point to express commitment for ratification of Rome Statute. At this point, there is unwillingness of the political and government level to ratify Rome Statute and at the same time, the human rights and civil society have continued their campaign for ratification. Though these opposite interests are not subject of conflict, they reflect the positive and negative concept on the issue. Similarly, the government and the Ministries are not liberal for reform in the existing torture related law. This project brought into debate the weaknesses of the existing Compensation Relating to Torture Act of 1996 and exerted pressure for formulation of a new law to replace it with a proposition of the Bill Relating to Torture 2065 drafted on behalf of the civil society. The government is indifferent on formulation of a new law against torture but the civil society has intensified demand for an effective law. Despite these conflicting interests the stakeholders from the government and non-government level were brought to the same forum to finalize draft of Bill Relating to Torture 2065. The project has made effective coordination for this purpose. This coordination has ensured harmonious relationship between the conflicting interests.

This project is innovative in itself. This is the first project of its kind that has been implemented in Nepal by linking the issues of torture, impunity and Rome Statute. As this is a campaign based project, some of its activities have similarities with the activities of other similar projects. But, the elements that make this project innovative are drafting Bill Relating to Torture, 2065 on behalf of civil society, translation and dissemination of resource materials on international instruments developed against impunity and International Criminal Court to the key stakeholders. This has helped fulfill the gap of resource materials in Nepali language to fight against impunity.

3.1.5 Scale of project

Obviously, there are some learning that can be derived from the projects of both small and large scale. Impact of small projects is smaller in comparison to that of large scale projects. The small project covers small target area and target audience, but the larger projects have larger coverage. Despite its small scale, the strength of this project is that it has addressed the issues of key stakeholders from the government, political and non-government level. The project has sensitized the target audience on the basis of the knowledge and efforts of the international level. Hence, learning from this project is that the project can be implemented effectively if the issue and activities are identified effectively. However, it cannot be ignored that the government and the political parties must be responsible to ensure attainment of the objectives in a project like this. There are more risks when the intervention at the policy formation level and accountability of the government is expected in the project outcome.

Learning of this project is that the issue of torture and impunity cannot be addressed effectively when the government is not accountable to the incidents of violation of human rights and the convicted cannot be prosecuted. It is an important learning of the project that the campaign against torture and impunity should be initiated from the grassroots level. From this perspective, the issue raised by this project seems to be appropriate for a large scale project. Nevertheless, the project has benefited from local to the policy making level.

The merit of a very focused project practice is that it is measurable, result oriented and easy to manage and implement. But its demerit is it can reach a small territory and limited number of beneficiaries. At the other hand, a large scale project can reach large number of beneficiaries and target groups. Its effect is also wider. But the complexity in management and implementation can be listed as its demerits.

3.1.6 Location of project

General objective of the EIDHR micro project programme is to provide small scale financial support for initiatives designed to promote human rights, the rule of law and democracy. The issues relevant to this objective are of the policy level. The more we create mechanism for protection of human rights and to maintain rule of law the more we reach nearer to the objectives of EIDHR. Similarly, we have to select an area for implementation of the project on the basis of the problems and the stakeholders relevant to them. That means we have to select project location on the basis of location of the stakeholders relevant to the project objectives. The project location should be at the central or national level if the project addresses policy level intervention. Likewise, it is practical to target the rural areas if the project aims awareness building and empowerment of the people at the community level. Therefore, main factor for selection of project location is the issues determined and the way to address them.

Major factor affecting choice of location in this project was the issues identified such as torture, impunity and ratification of Rome Statute. The issue of ratification of the Rome Statute for combating torture and impunity is the issue of national concern. Therefore, the activities were implemented focusing the central level stakeholders at the central level location. However, the project reached regional level to collect feedback for civil society draft Bill Relating to Torture, 2065 from the local level. Reason behind this is to incorporate experiences of the regional level stakeholders and to make them feel ownership in the project. Therefore, the project has tried to ensure ownership of the target audiences through selection of appropriate project location.

The replication, impact and multiplier effect of the project activities can be felt more vividly as the project was implemented at the central and regional level. Reason behind this is the concentration of mass media at the project location. The media is centralized in the capital and headquarters of the development regions. As the project activities were implemented in the capital and four regional headquarters outside Kathmandu, they received wider media coverage. This ensured added chances of nationwide replication, impact and multiplier effect of the project activities. Considering in this way, the location of project seems to be appropriate as the activities were implemented in the urban areas which are the administrative centers of the government.

The project activities can have replication and multiplier effects at the urban as well as the rural areas. Media coverage and dissemination of information regarding project outcomes can be felt more effectively at the urban areas. However, nature and objective of the project affects selection of location of project. The projects aiming for policy level intervention are better placed if city centered. On the other hand, the projects prepared for development, infrastructure building and community empowerment are more effective in the rural areas. In this way, the location of project can be urban or rural areas depending upon the project objectives and problems addressed. Nevertheless, selection of project location lays impact in the project output. This project has laid impact at the policy making level as it was implemented in the capital and regional headquarters.

3.1.7 Project methodology and relevance to and effective for target groups

Methodology of this project was participatory. The stakeholders were widely involved during project implementation. For instance, during project roll out, the target groups and implementing agencies were actively involved in implementing each of the project activities. Representatives of government agencies, law enforcing authority, political parties and their sister organizations, judiciary, policy makers, trade unions, civil society, human rights organizations, women, dalit, ethnic communalities, common people, educational institutions, media, lawyers were effectively involved in campaign and advocacy. Likewise, ex-judge, policy makers, representative of Home Ministry and Law Ministry, experts and the target groups identified by the project were involved in the draft legislation process. A wide coalition of the human rights and civil society was formed to proceed campaign for ratification of Rome Statute of ICC and Optional Protocol of CAT 2002. Participation of stakeholders from the government and non-government sector was

ensured in the coalition. This created a congenial environment for ownership sharing among stakeholders.

Due to sharing of ownership, the representatives of the target groups have been using the Bill Relating to Torture 2065 prepared under this project as an advocacy material. They are making efforts to pass the Bill from the parliament. On the other hand, as the time and expertise of the target audience is invested in preparing long term action plan, several human rights organizations have incorporated the issue of ending torture and impunity and ratification of the Rome Statute and OP-CAT in their internal action plan also. Lawyers, Office of the Attorney General, law enforcing agencies, NGOs and other stakeholders have been using the publications brought out under this project namely International Instruments Developed Against Impunity and An Introduction to the International Criminal Court as advocacy material against impunity.

Mapping of the efforts made against torture and impunity was carried out, though baseline study was not conducted during project designing. The project is found to be prepared after review of available literature and minute assessment of the existing situation of torture and impunity in the country. Consultations were conducted with representatives of target groups before implementing each activity. Consultations were held with the Amnesty International-Nepal Section, National Human Rights Commission and other institutions. Intensive consultation is found to have been conducted with the target groups for implementation of the project activities such as public hearing, mass demonstration, draft legislation and action plan preparation.

The problem of torture and impunity is a major problem of the whole Nepalese society. Therefore, the project determined the whole Nepalese society as the final beneficiaries. Human rights situation of general Nepalese people can be improved only when we wipe out torture and impunity from the face of Nepal. Likewise, criminal justice system can be improved only when we ratify Rome Statute of ICC and ensure its domestication. Criminal justice system is the instrument to improve justice system for the people. Thus, the project perceived needs of the final beneficiaries. The target audience are the direct beneficiaries of this project. For project implementation, three levels of target audience are categorically selected. There is relevance between the issues raised and the needs of the direct beneficiaries. For instance, it was necessary to sensitize stakeholders of all the three levels by preparing and disseminating resource materials on the International Instruments Developed Against Impunity and Introduction to the ICC. Government and political level is responsible for ratification and implementation, so their involvement is ensured in the project activities. The non-government sector is responsible to follow up implementation. Therefore, activities have been designed to involve direct beneficiaries.

This project worked towards its goal of combating torture and impunity for promotion of human rights, rule of law and democracy in achieving its purpose of reducing the widespread torture and impunity and to make the government, law enforcing agencies and security forces accountable for their crimes against humanity and victimization of innocent civilians.

The intervention strategies utilized the Rome Statute and Optional Protocol of CAT as the point of departure. These instruments represent standards of prosecution against human rights perpetrators and protection of torture victims as well as shape a universal jurisdiction and practice of combating against torture and impunity.

Utilizing different activities and methodologies, the project succeeded to intervene on the identified issues at the political level, government level and non-government level. For this purpose, special methods of implementation were applied to ensure direct involvement of the target groups and to make project result oriented from their level.

The methodology of campaign and advocacy was applied to achieve the overall objectives and specific objectives 1, 2 and 3. Lobbying vis-à-vis legislative organs were applied for the objective 3. Preparation of Resource Book on Rome Statute and ICC and its publication / dissemination was accomplished to attain the objectives 2, 3 and 4. Draft legislation recommendation was conducted for objective 5. Long term strategy plan was

prepared for ratification and implementation of Rome Statute, Optional Protocol of CAT and a new legislation was drafted to meet overall objectives and specific objectives.

Methodology of this project is practical and consistent with the objectives of EIDHR Micro-projects Programmes 2006 and its priority area – Campaign 2: Fostering a culture of human rights. Having relevance with the objectives and priority of EIDHR, the methods of implementation were directed towards obtaining project results.

3.1.8 Project Methodology relevant to and effective for other key actors

The method selected for the project is relevant to and effective for other key actors as well. Adequate consultation was made with the other actors before implementing each activity and their feedback was sought about methodology to accomplish them. Some actors were even requested for their involvement to collaborate in implementation of certain activities. For instance, repeated consultation was conducted with National Human Rights Commission and other local actors to organize consultation meetings jointly at the regional level for drafting process of Bill Relating to Torture 2065. Human rights organizations and civil society were consulted to launch campaign demanding ratification of Rome Statute and OP-CAT. The events such as lobbying, consultation meetings, public meeting and mass demonstration, drafting Bill Relating to Torture 2065 were conducted with repeated consultations with the key actors and other actors.

The issues raised by this project were contextual and useful for other actors also. The issue of torture and impunity is as important to the other actors as it is to the key actors. All the actors have wished for ratification of Rome Statute and OP-CAT. Ending torture and need of an alternate law to replace the existing Compensation Relating to Torture Act of 1996 was felt by all the actors; therefore, the Bill Relating to Torture 2065 was drafted with the involvement of all the stakeholders. Hence, the project methodology was relevant to and effective for the other key actors.

This project has identified new necessities at the highest level. People's opinion is formed on the need of a new law relating to torture. The stakeholders have come to a consensus that the existing Compensation Relating to Torture Act of 1996 is not sufficient to address the various aspects of torture. Likewise, a conceptual framework for continuously developing and updating criminal justice system has been prepared. Public opinion is formed in favour of need to study and amend laws relating to criminal justice system in Nepal. Stakeholders have expressed their opinion that separate activities is required to be implemented for ratification and implementation of the Rome Statute of ICC. The need to carry out study and research for domestication of the Rome Statute after its ratification are explored.

3.2 Mainstream priority

3.2.1 Gender perspective

The project is found to be sensitive to ensure gender balance. The project was cautious regarding gender perspective from the very beginning. It has carefully addressed the issues of gender justice and equality at the highest level. While considering the participation in the activities implemented under the project, it is found that the representatives of the most excluded groups, e.g. women, children, victims of conflict were involved with priority. The victims of torture were significantly involved in the process of drafting Bill Relating to Torture, 2065. Likewise, women and victims were significantly involved in the activities of public meeting and mass demonstration. It is found that the participants representing dalit, ethnic community, women, victims, disabled have addressed and expressed their opinion in the public programmes organized under the project.

3.2.2 Children and women

The project did not address the specific issues of women and children. The project was, in fact, implemented with the aim to reform in the overall criminal justice system. However, encouraging participation of women was ensured in the project activities. The

project addressed the issue of torture and impunity for promotion of human rights and strengthening rule of law. Ultimately, the whole society benefits when the issues of torture and impunity are addressed by the state. It is not an exaggeration to say that the women and children are most affected by torture and impunity prevalent in the country.

This project had not had specific target to the rights of children. However, as children were most affected group in the past conflict, concerns about their basic rights were raised with due importance in conducting campaign and advocacy. Rights of conflict affected children who were victimized due torture endured by their parents were raised.

Women and children cannot be placed apart while implementing projects to intervene in the issues of torture and impunity. This is because Nepal has witnessed armed conflict with impunity in the past. The activities of armed groups at present are also affecting lives of women and children. Torture is widespread in the security agencies. Torture is being used as a tool of investigation whether it is with adult men or women or children. Impunity and lack of accountability have been practiced in the country as a firmly rooted culture. The project implementation team has felt that the women and children have been most affected by the incidents of human rights violation including torture.

It is obvious that the campaign for intervention against torture and impunity strengthens concept of integrated rights. Learning from this project was that the civil and political, economic, social and cultural rights should be viewed in whole to end torture and impunity. Similarly, it was found that justice cannot be guaranteed till the issue of rights of women and children are addressed properly.

3.3 Effectiveness

3.3.1 Project preparation

This project was developed to launch campaign for ratification of the Rome Statute and OP-CAT to end impunity and expansion of knowledge regarding international principles and practice developed against impunity. It is found that the project was developed with the assessment of torture and impunity scenario in Nepal. Mapping of the initiatives of the human rights and civil society was conducted at the time of project designing. The project was developed with mapping and assessment of needs of the target country and target groups.

FOHRID has utilized and consulted the logframe for assessment of project progress. Objectively verifiable indicator of achievement, source and means of verification and assumptions were viewed with comparison by the project implementation team to find out whether the objectives and outcomes indicated in the logframe were achieved or not. Logframe was used to verify whether the objectives of the activities were attained or not. The commitments for ratification of the Rome Statute and OP-CAT were obtained from the assessment of the views expressed by the government and political representatives at programs and for media reporting. The logframe was consulted for assessment of project progress.

Outcome of the project progress was monitored in the Quarterly project progress review and semester reporting using the logframe. Similarly, the assumption and risks mentioned in the logframe were consulted with caution for project implementation.

There was no formal partner in this project; however, some organizations among the target groups were involved as partners during project implementation. The project was successful to incorporate maximum number of institutions / organizations in implementing the activities such as lobbying, public meeting and mass demonstration, ICC ratification campaign (ICC week, July 1-7 2007 and Year long campaign against impunity, 1 June 2008 - 30 May 2009) etc. The organizations such as NHRC, HRTMCC, INSEC, CVICT

have played the role of partner in implementing draft Bill Relating to Torture 2065.²

To maintain transparency, FOHRID has disseminated information about the project activities and budget through press release prior to project implementation. The project staff and office bearers of the organization have told that they were informed in detail about the project activities and budget. It is found that the project implementation team shared information about the project expenditure and the balance budget in their meeting held in the interval of every three months.

3.3.2 Organizational experience

FOHRID had experience of working in the field of human rights prior to implementing Initiative to combat against torture and impunity project. This organization implemented Ending Unlawful Killings and Impunity funded by EU from January 2006 to December 2007. During the same period, FOHRID implemented advocacy for social, economic and legal justice for victims of conflict through truth and reconciliation commission funded by ActionAid; and Initiative for people's participation and ownership in the Constituent Assembly funded by DFID/ESP. Before 2006, FOHRID had worked on different small and medium size projects with the funding from DED Nepal, CARE Nepal, ESP, Transparency International, Grassroots International and so on. The projects are found to be implemented on the issues of HR Education for students and grassroots level people, Campaign for application and implementation of IHL Geneva Convention (Common Article-3), Democratic reform including political party reform and restructuring, Democratic civic education, Anti-corruption. FOHRID has implemented Regional Initiative for the rights to sustainable livelihood and the enabling of social and political participation with the funding from Consortium of Humanitarian Agencies (CHA) Sri Lanka / N(o)VIV, The Netherlands. FOHRID has adequate experience in the sectors of publication and dissemination, networking. They have also worked in the fields of research, preparation of training manual and conducting trainings.

Prior to drafting Bill Relating to Torture 2065 under this project, FOHRID had already drafted Bill Relating to Prohibition of Impunity 2007 and recommended it to the concerned authority to pass it from the parliament.

As FOHRID had already successfully implemented Ending unlawful killings and impunity project under EIDHR funding, this project is also implemented successfully. In this way, it was found that the experience of former projects have contributed to make implementation of this project a success. FOHRID had, in fact, gathered useful experience and knowledge in conducting advocacy, lobbying, publication and dissemination.

There is 40 percent involvement of women in FOHRID management. There is significant involvement of the ethnic and minority community including dalit and madheshi. There is a good gender balance in the project implementation team.

3.3.3 Coherence of the project

Though this project entitled Initiative to combat against torture and impunity is a campaign and advocacy based project, its outputs are measurable. Specific activities were selected for specific objectives. It is found that the specific objectives of the project have been achieved. This can be explained as follows:

Objective of this project was “to build a public interest campaign against torture and impunity for improvement of the state of rule of law, democracy and human rights

² It is found that regional level consultation meeting on the draft Bill Relating to Torture 2065 was held jointly by FOHRID and National Human Rights Commission in Biratnagar on 17 September 2007. Similar consultation meetings were held in Nepalganj, Dhangadhi and Pokhara on 22 May, 25 May and 19 June 2008 respectively in collaboration with INSEC and other local organizations. Likewise, national level consultation program was held in Kathmandu on 15 September 2008 in collaboration with HRTMCC and CVICT. The cooperation from the organizations and program expenses were arranged for these programs from budget of this project.

culture". Based on this objective, the project has built a public interest campaign against torture and impunity. This campaign has exerted pressure for institutionalization of rule of law, democracy and human rights in the state organs. It has made efforts to make key actors such as government agencies, and political parties accountable to the incidents of torture and impunity.

Second objective was "to initiate public advocacy on the need of improving Nepalese criminal justice system to check torture and impunity". This project has been successful to make the key stakeholders accountable towards criminal justice system. "There is a wide gulf between the norms and values to be adopted by a state that believes in rule of law and practice in Nepal. We have not been able to ensure rule of law based on the 22 instruments to which Nepal is a state party. The process of prosecution and the practice of criminal justice system have not received priority. The government has not criminalized torture, though it has ratified CAT. There is lack of effective law to regulate torture and impunity in our criminal justice system. Our criminal justice system becomes incomplete till we regulate impunity."³ "We must restructure or revise criminal law within 5 years."⁴

While considering the views expressed by the stakeholders from the government and political level in the programs organized by FOHRID and other programs, it can be said that the project has become successful to convince the stakeholders that inserting the issues of torture and impunity in the existing criminal justice system is necessary to reform criminal justice system in the country. On the other hand, the international instruments developed against impunity have been disseminated widely among law enforcing agencies, political leadership, security agencies and other stakeholders under this project. This document has been successful to sensitize stakeholders on the principles developed and practice against impunity by the international community. This has opened avenues for the parliamentarians, law enforcing agencies, lawyers and policy makers to understand the gaps and lapses in the existing criminal justice system in Nepal. The "International Instruments Developed Against Impunity can help to support democratic system in the country by eradicating widespread torture and impunity. This book can help the policy makers to end impunity."⁵ In this way, this project has been successful to explore the need to check and improve the situation of torture and impunity within the criminal justice system. This is a good beginning of public advocacy against torture and impunity.

Third objective was "to sensitize target groups on the importance of Rome Statute 1998 and Optional Protocol of CAT 2002 and to create a pressure on government for signing, ratifying and implementing the same". The project has become successful to sensitize general stakeholders on the need to ratify Rome Statute and OP-CAT. The government and political representatives have repeatedly expressed their commitments for ratification of the Rome Statute and OP-CAT. Besides, the participant stakeholders received knowledge about these instruments in the programs of FOHRID under this project. The project is successful to impart knowledge on the instruments through celebration of ICC Week and Year long campaign against impunity organized in collaboration with the human rights and civil society. Adequate pressure has been exerted to the government for ratification of these instruments. However, these instruments were not ratified by government during the project period. Though the legislature parliament passed directive order to the government to ratify Rome Statute, the government has not complied with it. One

3 A brief report of National Consultation to finalize alternative Bill Relating to Torture 2065, Organized by FOHRID and Citizen's Task Force to Combat Impunity on 15 September 2008 at Hotel Himalaya, Lalitpur Nepal.

4 Views expressed by CA member Nilambar Acharya and the then Attorney General Yagya Murti Banjade at a program entitled Ratification of Rome Statute and Its Jurisdiction organized by FOHRID in Kathmandu on 19 July 2008.

5 Views expressed by Nilambar Acharya at a program to unveil "International Instruments Developed Against Impunity" organized by FOHRID in Kathmandu on 3 October 2007.

of the reasons behind it may be the lack of adequate knowledge at the political level on the mandate of Rome Statute and its regulatory framework. Fresh political commitment is also required for ratification of Rome Statute.⁶ While considering this situation, the role of political parties and the government for ratification of these instruments is not positive till now. They are not clear till now about the contribution in the Nepalese criminal justice system that the ratification of Rome Statute can make.

The project has raised some issues for implementation of Rome statute and OP-CAT. Discussions have been held about the impact of ratification of the Rome Statute in the domestic level. Nevertheless, the first condition for implementation is its ratification and accession by the government. Nepal has not become state party to any of these instruments. Therefore, the project has focused more to ratification of these instruments rather than to implementation.

Fourth objective was "to prepare a Resource Book on the Rome Statute and ICC in order to impart the fundamentals of the instruments to the target groups." A resource material entitled An Introduction to the International Criminal Court has been prepared to attain this objective. This publication has provided useful information to the stakeholders on various aspects of the International Criminal Court. This has been distributed to the stakeholders representing political, government and non-government level. This makes the readers familiar with the international criminal justice system and International Criminal Court. "Knowledge about International Criminal Court and law of war is necessary for us due to the grievances created by the internal conflict in our country. This publication shall fulfill this need."⁷

Fifth objective was "to draft legislation relating to the rights and compensation for the victims of torture based on the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985 and CAT." Citizen draft Bill Relating to Torture 2065 was prepared to attain this objective. This draft Bill prepared after intensive consultation with the stakeholder has been handed over to the Ministry of Law, Justice and Constituent Assembly Affairs and Ministry of Home Affairs to pass it from the legislature-parliament. The Bill was forwarded with request letter to the concerned Ministers. In this way, FOHRID has attained objectives of this project at the implementation level. However, some time may be required to achieve actual outcome of this endeavor. The government and political parties are focusing to formulate a new constitution for the country. Bill Relating to Torture 2065 has been drafted under this project on behalf of the civil society to replace the existing Compensation Relating to Torture Act of 1996. It is not sure whether the parliament will pass it as recommended or not. Whether in the original form or with some revision, it is sure that the Bill Relating to Torture 2065 shall provide important feedback and input for amendment of the Compensation Relating to Torture Act of 1996 or formulating a new legislation relating to torture.

It is found that the project team has performed Quarterly Evaluation during project implementation. This helped make the project implementation more coherent with regular assessment of project outcome and challenges faced. The expected results and objectives have been assessed minutely. The project has been forwarded with the strategies determined after assessment through Quarterly Evaluation. The project, on the other hand, has explored the issues that are relevant to the political context of the country. The sequence of project implementation has been effective because the issues of the project were raised in accordance with the political and other development in the country.

The funding and outcome of this project has helped to form public opinion that the state should ensure effective justice for the victims of torture and the victims need cooperation

⁶ Views expressed by Narahari Acharya, Member of Constituent Assembly in a program jointly organized by FOHRID and Citizen's Task Force to Combat Impunity in Kathmandu on 30 July 2008.

⁷ Law, Legal Practioner's Club, 2007, No. 67, Page 32

for this. On the other hand, it has established the fact that Nepal should adopt international mechanism to avert and regulate crimes against humanity, war crimes and genocide that may occur in the future. Victims of the incidents of human rights violation and torture require stronger and more effective cooperation from the national and international level. This is because a large portion of the victims of human rights violation in the past armed conflict and the present armed insurgency and impunity in such incidents are seeking their rights that their grievances be addressed.

FOHRID has explored the needs and constraints of the victims of the incidents of human rights violation. Focal point of the campaign under this project is to break the chain of such incidents and inadequate legal system. Similarly, FOHRID has launched campaign to discourage and denounce the existing culture of impunity. FOHRID has borne the concept that zero tolerance to impunity is required to strengthen democracy and human rights because the political arena has been responsible to flourish impunity. This project has established the fact that impunity should be ended to promote a peaceful and tolerant state with respect to rule of law. In this way, the project has contributed to bring positive change in the trend of impunity in the country. It has made efforts to end the situation of lack of accountability.

3.3.4 Adaptation to changes in environment and local circumstances

The project has successfully adopted to the changes in environment and local circumstances. The issues to be explored by the project have been selected to fit in the need of the transitional situation of the country. Due to this, significant change in framework and methodology of project was not necessary during implementation.

Major 3 issues namely torture, formulating a new law on torture and impunity are still relevant in the Nepalese context. Hence, there was no change made in the implementation method on the basis of the issues raised by the project and intervention.

Situation of complaint or controversy did not arise during project implementation. It is found that it was not necessary to modify the project activities or methodology during implementation. However, there were some modifications in the issues explored by the project according to the change in circumstances. The issues were determined according to the groups and levels of stakeholders.

The public meeting and mass demonstration under this project was accommodated in the ICC week programme as part of Year long campaign against impunity. The campaign for ratification of Rome Statute and combating impunity was forwarded with an intensive alliance of human rights and civil society. This initiative brought the whole civil society under the wider umbrella of Citizen's Task Force to Combat Impunity. This has ensured systematic and effective campaign demanding ratification of Rome Statute and ending impunity. It is an important lesson learnt by FOHRID that the campaigners of human rights and civil society can be brought under the same umbrella to launch strong initiative against impunity with practical issues.

FOHRID and its project team has learnt about how to determine issues and stakeholders according to the changed scenario in the project location. FOHRID has succeeded to forward campaign against impunity by bringing together all the stakeholders of the human rights and civil society, instead of mobilizing a single organization or a small team of campaigners. Besides, the project has responded to circumstances including various forms of violation of human rights, reform in the legal and criminal justice system, accountability, peace process and transitional process. The project has raised the issue of impunity in the context of torture. It has also exerted pressure in favour of ratification of Rome Statute and OP-CAT. This project was implemented at the national and regional level. It also addressed the local circumstances in the context of the issue of torture. While implementing activities at the national and regional level, the project explored current situation of gross violation of international human rights law and serious violation of international humanitarian law at the national and local level.

3.3.5 Right based approach

This project was designed with the right based approach. It has conceptualized claim and expression of rights for the people. It adopted rights and welfare approach. The project has promoted the concept that torture and impunity free society is the right of people. The project has explored the issue of justice and livelihood for the victims of the incidents of torture and human rights violation. The project has explored various aspects of national and international criminal justice system in connection with the crimes including war crimes, crimes against humanity and genocide. Need to establish Nepalese legal system in accordance with the international criminal justice system for a war free and peaceful society is being expressed in clear terms. This project has conceptualized that "Torture and impunity free society as the right of Nepalese people" at the highest level. The project has conceptualized the important issues such as victim's rights, right to justice, right to fair trial, civil and political rights, right against torture and impunity etc. For the purpose of implementation of the project, following international human rights instruments were considered:

- Universal Declaration of Human Rights-1948
- International Covenant on Civil and Political Rights-1966
- Optional Protocol to the International Covenant on Civil and Political Rights-1966
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty-1989
- Vienna Declaration and Programme of Action-1993
- International Convention on the Elimination of all Forms of Racial Discrimination-1965
- Convention on the Elimination of All Forms of Discrimination Against Women-1979
- Convention on the Rights of the Child-1989
- Convention on the Prevention and punishment of the Crime of Genocide
- Convention on the Non Applicability of Statutory Limitations to War Crimes and Crimes against humanity
- Statute of the International Tribunal for the Former Yugoslavia
- Statute of the International Tribunal for Rwanda
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of International Armed conflicts (protocol -I)

The rights and provisions for remedy on the violation of rights borne by the above instruments have been referred during project implementation. Besides, the project conducted advocacy on the basis of the rights enshrined in the following instruments:

- Rome Statute of the International Criminal Court
- Brussels principles against impunity and for international justice 2002
- 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
- UN Declaration of Basic Principle of Justice for Victims of Crime and Abuse of Power – 1985.
- European Parliament Resolution on Impunity in Africa and in Particular the Case of Hissene Habre.
- Updated Set of Principles for the protection and promotion of human rights through action to combat impunity.

The rights enshrined in the above instruments were discussed widely with the stakeholders during project implementation. Especially, the standards set forth in the Rome Statute of the International Criminal Court, Updated Set of Principles for the protection and promotion of human rights through action to combat impunity, Convention against Torturer and Other Cruel, Inhuman or Degrading Treatment or Punishment-1984 and International Covenant on Civil and political Rights-1966 were consulted to establish intervention against impunity. The Bill Relating to Torture 2065 has been drafted on the basis of the above documents after intensive consultation with the stakeholders. Right to reparation, right to fair hearing and remedy, right to legal aid and right to security have been defined in the Nepalese context to establish the rights of victims and to ensure

justice for them. In this way, the project raised logically the need of redefining and adjusting the customary domestic laws in accordance with the standards set forth in the international instruments. The project has addressed the need to revise customary law to expand legal dimension against impunity. The precedents of Nuremburg Trial and Tokyo Trial were utilized for this. Besides, efforts were made to bring gross violation of international human rights law and serious violation of international humanitarian law into justice system on the basis of Convention on the Prevention and punishment of the Crime of Genocide, Convention on the Non Applicability of Statutory Limitations to War Crimes and Crimes against humanity, Statute of the International Tribunal for the Former Yugoslavia and Statute of the International Tribunal for Rwanda.

The project has explored the need of a clear domestic law against impunity. The project has conducted advocacy to refer to the international customary laws while formulating a domestic law. The Convention on the Prevention and punishment of the Crime of Genocide and Convention on the Non Applicability of Statutory Limitations to War Crimes and Crimes against humanity are regarded as international customary law. It was also found that the existing criminal law in Nepal cannot address the prevailing situation of torture and impunity. The project clearly justified the relevance of formulation and enforcement of domestic law relating to torture alongwith amendment and reform of existing criminal law in line with the international criminal justice system. In this way, the project has promoted the context of intensive legal pluralism against impunity. Hence, the project has adopted right against torture and impunity. It has conducted advocacy on the need of a new law to end torture and impunity. The due process of law and access of torture victims to justice is raised as a central point. It has emphasized promotion of culture of responsibility and accountability to end torture and impunity from the face of Nepal.

3.4 Impact and assessment of the outcome level

3.4.1 Situation of target groups

Initiative to combat against torture and impunity project was prepared from the right based approach. The project raised the rights determined by the international criminal justice system. The project has more systematically customized knowledge on rights against torture and impunity. More importantly, the project raised the issue of creating a society with zero tolerance to torture as a right of the target audience. The project has expanded advocacy on the rights of people on the crimes of international concern including war crimes and crimes against humanity. The project has selected target audience on the basis of their rights and needs.

The project has intervened at the policy level on the issue of torture and impunity. It has been able to address the problems of the target audience by expanding level of understanding through advocacy. It has laid impact to enhance the level of understanding in the policy makers, political parties, law enforcing agencies and campaigners on the ICC. The project has expanded knowledge on the ICC and its jurisdiction. Likewise, it has filled the gap in the law enforcing agencies regarding the regulatory framework of OP-CAT. In this way, the project has helped improve the existing knowledge in the target audience and encouraged others to help on the issue. It has exerted pressure to the stakeholders to extend assistance for the victims of human rights violation and established their access to justice.

It was necessary to enable those affected by the incidents of human rights violation, armed conflict, torture and impunity. In this context, the project was focused to make state and non-state actors accountable. The project emphasized to conduct advocacy for taking action against perpetrators and provide justice to the victims by minimizing gap between the perpetrators and victims through advocacy.

Prior to this project no one had implemented any project by linking the issue of torture with impunity. Moreover, this project linked these issues with the campaign for ratification of Rome Statute of ICC and Optional Protocol of CAT. As Nepal witnessed a decade long armed conflict from 1996 and dozens of armed groups have been emerging in the

present time also, it was necessary for Nepal to accept the international criminal justice system developed to address the serious incidents of violation of human rights that draw international concern. The project has been successful to make realize this situation; however the Rome Statute of ICC and Optional Protocol of CAT are not ratified till now. Major cause behind this is the transitional politics in Nepal. The impact of the project in the situation of target groups was felt as assumed. The project has convinced the target groups to work to end torture and impunity. Commitments were obtained from the stakeholders of government and political level for ratification of Rome Statute of ICC and Optional Protocol of CAT. This project enhanced the intensity of collaboration against torture and impunity. This is an effective impact in the situation. Stakeholders from the political parties, law enforcing agencies and policy makers have accepted the gravity of impunity and expressed their commitment to work to end these social diseases. While considering from this perspective, the project has been successful to help strengthen and empower voice of the target groups.

The project has facilitated the human rights and civil society to conduct campaign for ratification of Rome Statute against torture and impunity. This has brought a situation to increase the programs to intervene on the issue of impunity more than before. The campaigns for ratification of Rome statute of ICC and Optional Protocol of CAT have become more organized and systematic.

The project has brought difference in the practice of the projects conducted with the financial assistance from EIDHR. Its important aspect is that it has succeeded to make other stakeholders realized their ownership though it was a specific project. Other human rights defenders and organization have felt ownership though it was a project implemented solely by FOHRID. In this way, this project has promoted the culture of collaboration. The project has made efforts to introduce a common solution of problems by bring stakeholders from political level, governmental level and non-governmental level in the same forum. Major difference brought by this project is the development of a culture to address problems with the joint efforts of these three levels of stakeholders. This has brought an opportunity to brain storm, bear responsibility and monitor by bringing stakeholders from political level, governmental level and non-governmental level at the same place. One agency has raised the question on the bearing of responsibility by another agency. In this way, this project has initiated a different type of practice to promote accountability.

3.4.2 Technical and management capacity of target group

This project has made impact in the technical and management capacity of the target audience. Firstly, this project has transferred the knowledge developed at the international level by addressing the serious crimes of international concern. This has provided sufficient theoretical knowledge to the target audience regarding prosecution to the perpetrators and justice for the victims. Similarly, it has shown a clear way about how to implement Rome statute of ICC and Optional Protocol of CAT. It has provided adequate information regarding the jurisdiction of ICC, the cases under its purview and the procedures followed by the court. Capacity of the stakeholders has been enhanced on how to take the serious cases of international concern to the mechanism established by the international criminal justice system and what are its legal foundations.

Target groups are more aware to address the existing situation of torture and impunity and they are able to launch theoretical and pragmatic struggle against the trend of torture and impunity. This situation has helped the target audience to lead the society to a positive direction. Capacity of the target audience has been enhanced to conduct campaign for ratification of Rome Statute of ICC and Optional Protocol of CAT as well as to conduct advocacy against torture and advocacy and policy level dialogue and debate to improve criminal justice system vis-a-vis check impunity. Furthermore, this project has encouraged human rights community, civil society and journalists to write and advocate against torture and impunity. This project has transferred theoretical and technical knowledge in the target audience to prosecute against the perpetrators involved in the crimes of international concern. This knowledge has enhanced capacity of the target

audience. Capacity was built on the way, method and legal process to bring the convicted person to the legal system.

3.4.3 Multiplier effects

Multiplier effects of the project were identified in 6 points. First was operationalizing Rome Statute, Optional Protocol of CAT and use of other project produced publications. Accordingly, the stakeholders have been utilizing the project produced publications. Office of the Attorney General has been utilizing International Instruments Developed Against Impunity as a resource material in its training programs. This publication, alongwith An Introduction to International Criminal Court has been prescribed as reference books in the Course of Study of Victimology by Tribhuwan University in the Bachelors in Law. The documents and publications translated and produced under this project have been used by the law enforcing agencies as resource materials.

Second multiplier effect was intervention area extension and promotion of human rights, rule of law and democracy. In this connection, the project has stressed the need to adopt the framework of International criminal justice system in Nepal. Systematic activities have been selected for ratification and implementation of Rome Statute and Optional Protocol of CAT. Reform in the domestic law and domestication is necessary after Nepal ratifies Rome Statute. This shall strengthen rule of law and democratic system contributing to the protection and promotion of human rights. Campaign for protection of human rights and ending impunity is a long term activity. For this purpose, this project has justified the need of accession of Nepal into the ICC and has made efforts to this effect. This project has extended intervention for the campaign for ratification of the instruments and reform in the relevant domestic laws.

Third multiplier effect is nationwide reflection of campaign. This project had aimed to run long term campaign for signature, ratification and implementation of Rome Statute of ICC and Optional Protocol of CAT. Likewise, the project has been successful to lead the stakeholders of all sectors and levels towards a campaign against torture and impunity. In this way, the project has laid nationwide reflection. As an impact of this project, people have started to conduct advocacy on impunity, publish articles, express voice against impunity at the highest level. In this way, the project has been successful to impart nationwide reflection.

Fourth multiplier effect was reduction of impunity to make the government and law enforcing agencies accountable. The gravity of impunity has not reduced. This does not mean that the project did not exert pressure to the government and law enforcing agencies to be accountable. The project in fact exerted pressure at the highest level. Lobbying was conducted against torture and impunity at the national and international level. It sensitized stakeholders on the issue. However, impunity is institutionalized at present more than in the past. In the year 2008, the government withdrew number of criminal cases, press was attacked, torture and murder occurred in the PLA cantonments of CPN-Maoist and the government showed attitude to protect criminals involved in serious crimes. The government has failed to take action against those involved in the killings of restaurant owner Ramhari Shrestha, journalists Birendra Sah and J. P. Joshi and Pradeep Khadka.⁸ There are large number of examples of such incidents. In fact, the government has failed to become accountable to control the incidents of impunity. It is felt that impunity is being institutionalized from the government level itself. In this connection, the project aimed to lay multiplier effect through challenge to the government and law enforcing agency. But, it seems that the project may not be completely successful to lay impact as envisaged. This is because the state is totally unwilling for prosecution against the perpetrators. Action could not be taken against many

⁸ Pradeep Khadka had died due to excessive beatings of the Police during road checking at Balkumari, Lalitpur on 10 September 2008. The Maoist combatants took Ramhari Shrestha to their Cantonment in Chitwan on May 2008 and killed him there after excessive torture in the name of investigation. Birendra Sah and J.P. Joshi were killed by Maoist cadres for reporting against their activities.

perpetrators involved in human rights violation. This project laid impact to become accountable for promotion of rule of law and protection of human rights. The government representatives have repeatedly expressed their commitments in this regard. But, these commitments are not transformed into reality.

Fifth multiplier effect is replication through knowledge, information and processes. This project has helped to understand various dimensions of torture, impunity and international criminal justice system. The stakeholders have been able to understand national and international provisions to take action against those involved in the incidents of human rights violation. The project produced materials are being utilized by the think tanks, columnists, journalists, law enforcing agencies, human rights community and civil society. More write ups are being published on the issues of taking action against human rights violators and provisions of international criminal justice system on impunity. In December 2008, 2 articles have been published in the Kantipur vernacular daily citing the project produced publications.⁹

3.4.4 Short- and long-term impact

This project had envisaged short and long term impact in three levels. This was determined to attain sustainability of the project. Therefore, there are firm grounds for attaining sustainability. The short- and long-term impact of the project can be described as follows:

a. Financial aspect

This is the second project implemented by FOHRID with the financial assistance from EIDHR. Duration of this project has ended in December 2008. But the significance of the issues raised by the project has not ended. The problems raised by the project are still intact. Though the project has made impact in the issues raised, it will take time to feel its substantive impact. Therefore, continuation of advocacy and creative campaign against torture and impunity is still there. The problem of torture and impunity has not decreased. It is found that FOHRID has been planning to implement further programs as follow up of the activities initiated by this project.

Additional resource is required for follow up of Bill Relating to Torture 2065. Likewise, additional programs and institutional support is required to further proceed campaign for ratification of Rome Statute and strengthening Citizen's Task Force to Combat Impunity. FOHRID has been preparing project proposals and submitting them to donors to arrange additional resources for continuation and follow up of the project activities. It is compulsory to implement additional activities in the areas explored by this project. Similarly, the resource materials and knowledge disseminated under this project have paved way for additional activities for ratification of Rome Statute and OP-CAT and to combat against torture and impunity. Follow up is also required to pass the Bill Relating to Torture developed on behalf of the civil society as an alternate to the Compensation Relating to Torture Act of 1996. Continuous follow up to pass this Bill may be possible in a voluntary basis; however, financial resources will be required to make it more effective and systematic. Important fact in this regard is that as FOHRID has initiated intervention on the issue of ratification of Rome Statute to combat against torture and impunity, it is necessary to take it to its destination. For this purpose, it is necessary to prepare proposals and submit them to the EIDHR or other donors for further funding.

b. Institutional level

This project had expected formulation of new law and policy against torture and impunity. As a point of departure, the project had aimed ratification of Rome Statute of ICC and Optional Protocol of CAT. It could have paved way to check torture and impunity with legal provisions. It could also promote rule of law and human rights culture in the long run. During the project period, neither legal and policy reform were visible significantly

⁹ Kailash Siwakoti, 'Rule of law in the nexus of impunity', 23 December 2008 and 'Hidden issues on withdrawal of cases', 31 December 2008, Kantipur daily.

nor the government ratified Rome Statute of ICC and Optional Protocol of CAT. However, the project was successful to create ground for this. It can be expected that the issues raised by the project shall be addressed sooner or later.

This project has established ownership at the local level. Successful drafting of Bill Relating to Torture 2065 with wider participation of the stakeholders is an example. The human rights and civil society have regarded this as a common achievement. The project has raised the issues of prosecution against perpetrators involved in human rights violation, adequate compensation to the victims and entry of Nepal in the international criminal justice system, i.e., the International Criminal Court. It has stressed the need to eradicate the problems of torture and impunity. The relation between FOHRID and target audience has been stronger during project duration. FOHRID has intensified its collaboration with the national and international organizations including government agencies, law enforcing agencies, political parties, NHRC, UN agencies, ICJ and OHCHR. This has enhanced the opportunity of collaboration and active solidarity adding value of the program. Collaboration between FOHRID and stakeholders has created firm ground for joint effort for domestication of Rome Statute, once it gets ratified. Registrar of the Supreme Court publicly announced that training on Rome Statute and international criminal justice system is required for Nepalese judges and lawyers. He requested FOHRID to make arrangements for this and expressed his commitments to cooperate FOHRID to succeed this initiative.¹⁰

The knowledge, information and equipment gained by FOHRID through this project shall help us to continue systematic intervention on the issue of torture and impunity. Similarly, it has further strengthened campaign for ratification of Rome Statute. Even after the end of project period, the relevance of the issues has enabled FOHRID to seek further funding from EIDHR or other donors. While considering from this perspective, FOHRID has built up capacity significantly. Likewise, FOHRID has sensitized stakeholders on dimensions of impunity and international criminal justice system. FOHRID has enhanced its capacity through the knowledge and learning of this project. This has opened door for FOHRID to continuously intervene in the issue of torture and impunity as well as ratification and domestication of Rome Statute of ICC. However, financial and technical cooperation of donors cannot be ignored.

C. Policy level

It was expected that the government would ratify Rome Statute and Optional Protocol of CAT and formulates policy measure for their implementation at the domestic level. Similarly, the project had been designed to impart structural impact at the policy level through passing the Bill Relating to Torture, 2065 prepared under this project. But these expectations could not be fulfilled during project period. Main cause behind this is the dominance of risk factors assumed in the Logframe. This happened because Nepal is in the transitory phase and government and the political parties focused more in the political issues rather than the issues of law and justice. The project conducted advocacy and lobbying to incorporate provision relating to torture in the Interim Constitution. Consequently, the Rights against torture was incorporated in the Article 26 of the Constitution.

Article 26: Right against torture

- a. *No person who is detained during investigation, or for trial or for any other reason, shall be subjected to physical or mental torture, or e treated in a cruel, inhuman or degrading manner.*
- b. *Any such an act pursuant to clause (1) shall be punishable by law, and any person so treated shall be compensated in a manner determined by law.*

¹⁰ Views expressed by Ram Krishna Timilsina, Supreme Court Registrar in an interaction program entitled 'Ratification of Rome Statute and it's jurisdiction' organized by FOHRID on 29 July 2008 in Kathmandu.

In this way, it is a significant achievement of the project that it has left impact at the policy level through constitutional provision against torture. We can hope that this provision shall be continued in the next constitution also. The continuation shall certainly pave way for reform and amendment of law relating to torture as well as formulation of new policies in this issue. Sooner or later, Rome Statute and OP-CAT shall be ratified and the existing law relating to torture shall be amended.

Though the project has not made direct impact for legislation and administrative change in the government bodies, it has created public opinion in favour of change. Especially, the consultations and interactions during the process of drafting Bill relating to torture 2065 has explored future legal provisions against torture and impunity and need to establish people's ownership in it.

In this way, the project has been successful in public opinion formation for policy level improvement. This has enabled general public to be united and stand against torture and impunity. Integrated and united efforts for ratification of Rome Statute have increased. The project has contributed to incorporate provisions regarding torture and impunity in the political agreements including comprehensive peace agreement (CPA). However, it cannot be claimed that the project activity alone was responsible for this achievement. The intensive change brought by the Jana Andolan II was also responsible for this. Other actors of human rights and civil society have also contributed significantly to this.

It is found that the project has not made significant impact in the policies, programs and funding of other institutions. Major cause behind this is that the project was focused on the difficult issue of torture and impunity. This is a complex issue related to overall criminal justice system. Similarly, the issue of ratification and implementation of Rome Statute is a complex issue that aims to make the state accountable. After ratification of the Rome Statute, the state has to address serious crimes of international concern. Some donor agencies and institutions seem reluctant to work in such difficult and controversial issues. This is because the issue of torture and impunity is related to the ruling system and overall criminal justice system of the state. Impunity is also a political issue in a country like Nepal where democracy has not been fully institutionalized. Ratification and implementation of Rome Statute requires political will power and high political morale. Raising the issue of torture and impunity is in a way standing against the political leaders and rulers, because they enjoy emancipation through impunity. The activities launched for intervention in the issue of impunity deplores and criticizes the authority in the ruling position, law enforcing agencies and policy makers alike. Moreover, ratification of Rome Statute opens door for action against those who are involved in the crimes of international concern. In these circumstances, it is not practical to say that the political and government actors shall address these issues so easily. However, continuous efforts and pressure from the human rights and civil society creates environment to make them accountable.

3.4.5 Other Impact and Assessment of the outcome level

There was no significant unwanted impact seen during project implementation. The project somehow contributed to incorporate the provision regarding torture in the Interim Constitution, which was in fact not envisaged during project designing. This is a positive impact of the project. However, the project alone was not responsible to include this provision. Other actors also played their role. The level of sensitization, the project brought in the stakeholders is a positive achievement. Result of the peace process in the country also contributed to this.

Other factors also helped to enhance project outcome. The government could have ratified Rome Statute, had it wished from the political level. The reinstated parliament had passed directive resolution for ratification. Impact of the project would have enhanced had the government ratified Rome Statute and we would have additional responsibility to work for its domestication.

The political development such as signature to the CPA, enforcement of Interim Constitution, 2007, victory of CPN-Maoist as the largest political party in the CA,

leadership of CPN-Maoist in the present government have created both positive and negative impact to the project. The CPN-Maoist is found to be totally indifferent and unaccountable towards the issue of torture and impunity. Impact of the project would have been more effective if the government and the political parties could be accountable to the issues raised. Despite this, the state agencies, political parties, law enforcing agencies and non-government sector have expressed their verbal commitments to combat against existing torture and impunity. Factors affecting this situation are the political transformation and the public opinion created by the project.

This is a project based programme. It was conducted by determining measurable objectives and outcomes. Project itself has limited sphere of impact. This project implemented with small grant of EIDHR had aimed to address specific issues. It has been implemented in the project cum campaign model. Therefore, the activities have addressed the needs identified by the project promoting the campaign. It is a unique characteristic of this project to promote campaign though it was designed and implemented as a project. Therefore, it has proved that a project can be practiced as a campaign also. This project focused at torture and impunity has implemented in practice the concept of collaboration and acting solidarity. This has brought difference in the practice of civil society. This is visible in the form of collaboration and joint intervention in the issue of torture, impunity and ratification of Rome Statute. This can further be felt in the follow up of efforts to pass the Bill Relating to Torture 2065 prepared under this project.

The project has not left any measurable impact at the political level to end violent conflict prevalent in the society. This does not mean that the project did not contribute to minimize the grievances of violent conflict. The project added synergy to end violent conflict because the project conducted advocacy at the highest level against serious incidents of human rights violation by the state or non state actors. Subject matter of advocacy were the issues of peace, justice, democracy and rule of law. Likewise, efforts made for promotion of accountability and ending impunity contributed to the formation of concept for ending violent conflict.

3.5 Sustainability

3.5.1 Strengthening Capacity

This project was designed in the basis of policy level advocacy. The final beneficiaries and target groups were selected separately. Though FOHRID was beneficiary, Nepalese people were selected as final beneficiary. From this perspective, it is difficult to measure how much the Nepalese society can claim their rights against torture and impunity. However, the project target groups have received adequate knowledge regarding international efforts against impunity, provisions regarding rights of victims, their protection and access to justice. From this perspective, the project has been successful in capacity building of the target groups to express and claim their rights. The target groups directly benefited from this project have started to express that they have rights against torture and impunity and they must claim to obtain those rights.

The target groups have received significant knowledge on the jurisdiction of the ICC and the cases under its purview. They have received an opportunity to understand the international provisions and standards regarding action against the perpetrators involved in the serious violation of international human rights law and gross violation of international humanitarian law. The project produced materials including International Instruments developed against impunity and An introduction to International Criminal Court are being used as resource materials by lawyers and law enforcing agencies. They have received knowledge regarding international provisions and practices developed to address the problem of impunity. This has enabled them to identify weakness in the policy and law at the domestic level. They have been enabled to make efforts for bringing uniformity of domestic law with the international practices.

Capacity of FOHRID has been enhanced significantly through knowledge and experienced gained during implementation of the project. This project has enhanced the

capacity of the civil society, human rights community and media to work together against torture and impunity. Likewise, a coalition has been formed for ratification of Rome Statute and a campaign has been initiated in its auspices. Most of the activities of this project were implemented in collaboration of various organizations. This has ensured an environment for FOHRID to further proceed its activities against torture and impunity in collaboration with human rights and civil society. The activities such as public meeting and mass demonstration, Bill relating to torture 2065 and Action plan were accomplished together. This has enhanced habit and capacity of the stakeholders to work together for a common goal.

3.5.2 Sharing of practice and methodology

It is difficult to determine how much is it difficult to adopt good practices of program or projects of one region to another region or country. Nevertheless useful good practices are always shared and followed in other projects. This project has provided an opportunity to share good practices developed against impunity at the international level. The good practices established during project implementation have been shared with stakeholders and other organizations widely. FOHRID published such experiences and disseminated widely among stakeholders through electronic and print medium. It is found that all the project produced materials have been shared with stakeholders. The project produced materials that have been shared with the stakeholders include FOHRID Human Rights Monitor, Draft legislation, Final programme Report, International instruments developed against impunity, An introduction to International Criminal court.

FOHRID has got opportunity to share with the EU Delegation, the methodological understandings achieved during project implementation. The project implementation team has especially shared its understandings with the EU Delegation at the level of project implementation and reporting. The difficulties felt during draft legislation process were shared with the EU. While considering in this way, it is found that the FOHRID project implementation team shared its experiences with the EU Delegation regarding methodology and understanding as required. Understanding has been shared in some procedural matters. Understanding were exchanged on the matters of EURO exchange rate and application of exchange rate in reporting process.

3.5.3 Creates synergy

Synergy was created during project implementation in the context of three other issues. First, this project organized the issue of impunity and ratification of Rome Statute which were raised by FOHRID and other organizations in the past and strengthened the campaign. Second, it maintained unity with other programs implemented on the issue of transitional justice and TRC process. Third, expressing solidarity in the issue of legal reform it united stakeholders in the process of drafting Bill Relating to Torture 2065. Moreover, knowledge has been shared with other institutions and programs working on the disappearance Bill and formation of TRC. This practice created synergy in the programs of FOHRID and other organizations and institutions.

Collaboration with the other members of human rights and civil society was effectively maintained during campaign demanding ratification of Rome Statute and drafting process of Bill Relating to Torture 2065. The project had arranged coalition with the organizations and institutions including Amnesty International Nepal and National Coalition for ICC for its campaign. Drafting process of Bill Relating to Torture 2065 was implemented in collaboration with NHRC, INSEC, CVICT, HRTMCC, OHCHR and ICJ. FOHRID encouraged and lobbied to incorporate issue of torture and impunity in the programs and campaigns of other organizations in 2007 and 2008. This has created synergy to work in collaboration in the issues of impunity and ratification of Rome Statute.

3.5.4 Pre-strategy

Intervention strategy of this project were defined during project designing. These strategies were not redefined during project implementation. The country witnessed situations such as political change and election to the CA during project period. Though

these circumstances invited need to redefine strategy; however the relevance of the issue of torture, impunity and ratification of Rome Statute remained as important as before.

Adequate discussion with target groups and beneficiaries was conducted while implementing activities according to the project strategy. Involvement of other agencies was sought for project implementation. Strategies were selected to meet the needs of all the stakeholders. The project was designed to ensure uniformity with the organizations and campaigners working in the fields of torture, impunity and ratification of Rome Statute.

Discussion was conducted with the stakeholders before implementing draft legislation process of Bill Relating to Torture 2065. FOHRID had determined strategy to involve national and international human rights organizations in the process.

On the other hand, FOHRID requested with the representatives of identified target groups to work jointly before implementing each of the activities. Most of the activities have been accomplished with active participation of the stakeholders. Other organizations have been involved ensuring equal ownership in the project activities. Implementation of activities such as Public meeting and Mass demonstration and draft legislation process are some fitting instances.

Financial aspect is important to maintain sustainability of the project activities. FOHRID has explored follow up and intervention after the completion of project duration. FOHRID has made efforts to ensure financial resources for this purpose; however, it has made one important learning in this regard. FOHRID has implemented two projects on important issue with the funding from the EU. FOHRID has submitted proposals for further funding from EU and other national level donors. In such efforts, FOHRID has got the response that it should try with EC to continue funding.¹¹ Results of activities do not seem sustainable from the financial point of view. Despite financial shortcomings, FOHRID has determined to continue its campaign against impunity on a voluntary basis also. But, this does not mean that financial assistance is not necessary for this. Utilization of project produced materials, experience gained during draft legislation process can contribute in the long time in the future. FOHRID has also determined strategy to approach to approach with the donor communities for financial sustainability to continue the campaign.

3.5.5 Scope of extension

FOHRID made presentation of the foundation of continuation of the project outcomes for the long time in the future. Bill relating to torture 2065 prepared under this project is an exemplary effort to address the issue of torture and impunity in Nepal. FOHRID Chairperson claims that FOHRID shall continue its effort to pass Bill relating to torture 2065 from the parliament till there is adequate policy and legal reform on the issue of torture and impunity.¹² On the other hand, extension is necessary to incorporate this achievement in the policy level. There is need to continue the campaign for ratification of Rome Statute and OP-CAT initiated by this project with a coalition. Therefore, FOHRID has been continuing its activities and expanding it. It could have been expanded more effectively, had Rome Statute and OP-CAT been ratified as indicated in the project outcome. Though, the government did not become state party to these instruments during project duration, the knowledge and experience gained through this project can be utilized in the future.

There is need to give continuation to the outcomes of this project in the future. Resources must be arranged for this. FOHRID has determined 2 strategies for continuation. Firstly, to submit proposals to donor communities including EU. Second, to continue the activities by mobilizing internal resources and manpower of FOHRID.

¹¹ Based on a discussion with Advocate Sindhu Sapkota, Treasurer of FOHRID on 2 January 2009.

¹² Based on a discussion with Advocate Birendra Prasad Thapaliya, President of FOHRID on 2 January 2009.

This project has initiated systematic intervention on the issues of policy and legal reform on torture and impunity and ratification of Rome Statute and OP-CAT. These are complex issues and a small scale project cannot address these issues completely. In fact, this project has only created foundation for further intervention. From this perspective, there is ample opportunity for its further extension. Moreover, extension is imperative as the problem of impunity is getting more alarming day by day during peace process also. Efforts for prosecution have not been made in the serious crimes of international concern. Insurgent of the past is leading the government now. Addressing issue of impunity is necessary for strengthening democracy. Guarantee of access to justice and protection of the rights of victims is necessary. Extension of the project is a must because the issues of torture and impunity are closely related to overall criminal justice system.

The project activities have determined certain strategies for financial sustainability. First, new project proposals are being developed on the basis of the experience of implementation of this project and the proposals are being submitted to the donors for further funding. Second, some of the project produced materials are being sold in nominal price for fund collection for regular follow up of the project activities. Third, mobilization of the coalition formed under this project in a voluntary basis for ratification of Rome Statute and OP-CAT also helps to reduce financial burden. The equipments purchased under the project have also contributed in ensuring financial sustainability.

3.5.6. Further-strategy

This project has created foundation to forward campaign for ratification of Rome Statute and OP-CAT for a long term in the future till the target is met. These foundations shall of course ensure sustainability of the project. Based on this situation, further strategy has been determined during project implementation. These strategies are prepared with the participation of the general stakeholders. The project has identified following issues as further strategy¹³ to combat against torture and impunity:

Campaign to end torture and impunity: FOHRID has determined strategy to end torture and impunity through the methods such as advocacy, preparation of resource materials, publication, dissemination, sensitization on regulatory framework, study, drafting new law, selection of agenda for amendment of existing laws and so on.

Policy and legal reform on torture: Agenda have been determined for policy and legal reform regarding problem of torture. Likewise, programs for regular follow up to pass the Bill Relating to Torture 2065 prepared under this project have been determined.

Long term strategy plan for ratification of Rome Statute and OP-CAT: FOHRID has determined further strategies to make efforts for ratification of Rome Statute and OP-CAT and to help government on behalf of human rights community for their domestication after ratification.

Action plan for ratification

- a. To conduct awareness program to sensitize general public on the Rome Statute and OP-CAT.
- b. To implement activities including street drama, lecture for the students of various schools and colleges, media campaign, publication of articles and write ups etc.
- c. Preparation and dissemination of advocacy materials.
- d. To conduct interaction and workshop on the issue of regulatory framework of ICC and OP-CAT with the law enforcing agencies, policy making level and political leadership.
- e. To conduct lobbying and submit memoranda with the legislative organs, office of Prime Minister and CA Chairman.
- f. To carry out study and research on the issue of obligations, opportunity and

¹³ The strategies under paragraphs I and II have been prepared in consultation with FOHRID team. The further strategies mentioned in paragraph III are prepared as outcomes of activity V.

- impact that the accession into the Rome Statute and OP-CAT causes and to discuss the outcomes with major stakeholders.
- g. To strengthen Citizen's Task Force to Combat Impunity and to expand campaign against impunity nationwide for accession into Rome Statute.
 - h. To strengthen secretariat of the Citizen's Task Force to Combat Impunity to effectively coordinate nationwide campaign for accession into Rome Statute and to end impunity.
 - i. To form coalition of national and international human rights mechanisms to make campaign for ratification of Rome Statute and OP-CAT effective.
 - j. To conduct lobbying at the international level to exert international pressure for ratification of Rome Statute.
 - k. To hold discussion and consultation with the donor agencies to strengthen campaign for accession into Rome Statute and OP-CAT.
 - l. To conduct training for the institutions and individuals involved in the campaign for accession into Rome Statute and OP-CAT.
 - m. To prepare resource materials on ICC in simple Nepali language and to disseminate it among major stakeholders.
 - n. To disseminate information regarding the landmark verdicts of the Supreme Court directing the government to formulate and enforce law relating to impunity in the PILs filed by FOHRID on the unlawful killings of Umesh Chandra Thapa and labourers at Sunthali Airport, Kalikot.

Action plan for implementation at the national level

Rome Statute

- a. To conduct advocacy on the need to draft legislation for domestication of Rome Statute.
- b. To forward a process for law drafting for implementation of Rome Statute.
- c. To carry out study on the obligations that arise after accession into the Rome Statute.
- d. To carry out study, discussion and research regarding the national level mechanism to be formed after accession into the Rome Statute.
- e. To conduct interaction and workshop with the major stakeholders regarding development of codes to regulate Rome Statute.
- f. To conduct action research to find out major weaknesses prevalent in the Nepalese legal system affecting domestication of Rome Statute.
- g. To conduct strategic workshops with the legislative organs for implementation of Rome Statute.
- h. To conduct trainings for the judiciary and law enforcing agencies to sensitize them on Rome Statute and the criminal justice system it provides.
- i. To develop training package for implementation of Rome Statute and the justice system carried by it.
- j. To translate major precedents of the international criminal court and to provide them to the judges of Nepal.
- k. To intensify translation, publication and dissemination of Rome Statute of ICC, Rules of Procedures and Evidence and Elements of Crimes.
- l. To expand the sphere of participation of representatives from Nepalese government and non-government sectors in the international forums organized on the issue of ICC.
- m. To conduct campaign at the national level to declare void the Agreement regarding surrender of persons in the ICC between Nepal and USA signed on 31 December 2002.

Optional Protocol of CAT

- a. To carry out study, research and advocacy regarding the form of preventive mechanism to be set up by a state party after accession into the OP-CAT.

- b. To conduct consultation and interaction programs to determine work, duty, rights and form of national preventive mechanism.
- c. To carry out study of domestic laws that may hinder the implementation of OP-CAT.
- d. To draft domestic laws and national policies and programs for implementation of OP-CAT.

3.6 Visibility, communication and dissemination

3.6.1 Understanding and application of EU visibility rule

It is found that FOHRID has understood the visibility rule of EU and applied it adequately during project implementation. To ensure the visibility of the EU contribution in the project, FOHRID has applied 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 letter head is used in all correspondences related to the project implementation." Financial support by European Union" has been written in the banner used for public programs including focus group discussions, interaction and consultation meetings. Logo of European Union was displayed on the front cover page of the issues of FOHRID Human Rights Monitor and every publications supported by EU.

3.6.2 Communication with donor

Regular communication was maintained with EU during project implementation. European Commission was invited to participate relevant project activities. Communication was made for clarification if any problem in understanding of EU policies faced. The project progress was duly communicated with the EU as designed in the proposal. It is found that the information regarding implementation of activities and soft copies of each reporting were communicated to the EU.

3.6.3 Communication with target groups

The project stakeholders were adequately communicated during project implementation. Communication was maintained with the Ministry of Law, Justice and Constituent Assembly Affairs, Ministry of Home, Judges and Office of the Attorney General during draft legislation process. Effective communication and coordination was maintained effectively with institutions including NHRC, OHCHR Nepal, ICJ, Amnesty International, ICRC to achieve their support in project implementation. Invitation for participation of target audience in the project activities were delivered through e-mail, fax and by hand. Outcomes and reports of each of the events were also disseminated through these means. The project produced legislations were repeatedly communicated to the concerned authorities of Government of Nepal for lobbying. Request letters were written to CA Members, forwarding recommended Bills to pass them as law.

3.6.4 Dissemination

The project produced publications, reports, discussion papers and outcomes of the activities were carefully **disseminated among stakeholders**. The publications produced under this project were made public in the course of project implementation. For this, FOHRID adopted two strategies of dissemination.

It was found that the publications produced under this project were made public effectively in the course of project implementation. For this, FOHRID adopted two strategies of dissemination.

First, outcomes of each of the eventwise activities have been widely disseminated via electronic medium which has helped to sensitize target groups against torture and impunity.

Second, FOHRID flowed a request among major stakeholders to collect hard copy of the project produced publications. Responding to our request, the stakeholders including the Supreme Court, Office of the Attorney General, Nepal Army, Nepal Police, Armed Police Force collected their copies visiting FOHRID office. FOHRID arranged to drop copies to the CA Members in their Pigeon holes at their office. The publications were distributed to the participants of consultation meetings at the regional level and interaction and workshops at the central level during the programs. FOHRID arranged to drop the publications at the offices of the UN agencies, diplomatic missions, donor community, INGOs and NGOs based in Kathmandu. These are being disseminated to the dignitaries who visit FOHRID office. The stakeholders such as Nepal Bar Association, National Human Rights Commission, Nepal Law Campus and major libraries have visited FOHRID with request letters to provide the publications. In this way, the project produced materials have been effectively disseminated to the government agencies, political parties, political leaders, UN agencies, diplomatic missions, INGOs, NGOs, academicians and other stakeholders.

3.7 Staff performance

3.7.1 Coordination inside and outside.

It is found that the team members involved in the implementation of this project have maintained effective coordination at the internal and external levels. Discussion and planning meetings were held between FOHRID Executive Committee and Project implementation team before implementing each of the activities. It is found that they have made clear distribution of responsibilities to avoid any overlapping. There was good coordination within FOHRID team to bear the responsibilities entrusted to each of them. To make the activities fruitful, coordination was maintained with major stakeholders before implementing each of the activities. The discussions and consultations were held to make the activities result oriented. Separate preparatory meetings were held with different levels of stakeholders to make the drafting process of Bill Relating to Torture 2065 successful. The project team coordinated with stakeholders to succeed this activity. A campaign was initiated with a loose coalition of 52 organizations demanding ratification of Rome Statute and OP-CAT. This coalition is now merged to the Citizen's Task Force to Combat Impunity. And the coalition is active in its mission. Preparatory meetings were held with human rights community, civil society and occupational organizations for organizing public meetings and discussion programs. This ensured good coordination to succeed the programs. The long term action plan was prepared with the participation and feedback from the human rights community. Coordination was maintained with the stakeholders before drafting long term action plan.

3.7.2 Staff performance at various levels

The project staff carefully maintained internal and external coordination for implementation of the project. Each of the activities were implemented with good coordination. The project team contributed a lot to prepare resource materials under the project. Information was disseminated in right time. The Project Officers sincerely prepared Monthly review and reporting to submit to the Project Coordinator. Likewise, performance data against each logical framework indicator was prepared. Staff performance was satisfactory during all levels of project implementation.

3.8 Budget

Project cost is satisfactory. However, the project was accomplished in a low profile due to economic budgeting. It was a weakness of the project that adequate budget was not allocated in certain headings during project designing. In this way, the project budget is insufficient compared to the activities determined. For instance, budget was not allocated for the meetings of the Action Plan. However, all the project activities were accomplished in a satisfactory way.

Total budget and expenditure

S.N.	Expenses / Items	Total budget	Completed percentage	Percentage of total cost
1.	Human Resource	22,600	100%	40.72%
2.	Travel	480	100%	0.86%
3.	Equipment and supply	3,460	100%	6.24%
4.	Office cost	7,200	100%	12.98%
5.	Other cost service (Major activity cost)	18,124	99.85%	32.66%
6.	Administration	3,630	99.94%	6.52%
	Grant Total	55,495		100%

There was clear impact of exchange rate between EURO and Nepali Rupees in the budgeting. There was exchange gain due to unstable ebb and flow of exchange rate. The inflation also affected program budget. The project team has experienced many difficulties due to the impact of price hike and exchange gain.¹⁴ On the other hand, the interest gained in the FOHRID account is added in the total project cost. It has also affected the budget.

4. Major Findings

Major findings of this project are discussed in the following paragraphs. The findings are based on the questions such as whether the activities were accomplished in accordance with the determined time line? Were the project objectives achieved? What is the status of expected results? How far did the assumptions and risks affect implementation of the project?

4.1 Activity execution level

#	Activity	Achievement
1.	Campaign and advocacy	All the activities accomplished as determined.
	Public meeting and demonstration - 4 events	
	Interaction with target groups -3 events	
	Lobbying vis-a-vis legislative organs	
2.	Preparation of Resource Book on ICC	Completed
3.	Draft legislation recommendation	Completed
	Consultation meeting at central level - 4 events	
	Consultation meeting at regional level - 4 events	
4.	Publication dissemination	Completed
	Resource Book on ICC and Rome Statute -2500 copies (An Introduction to International Criminal Court)	
	Compilation of Impunity documents -2000 copies (International Instruments Developed against Impunity)	Completed
	Draft legislation (Nepali + English) - 500 copies	
	FOHRID Human Rights Monitor (Project bulletin) - 4000 copies	4500 copies completed
	Action plan document - 2000 copies	Completed
5.	Formulate long term intervention strategy plan of action	Completed

¹⁴ Based on a discussion with Mr. Krishna Prasad Aryal, Assistant Account Officer of FOHRID on 4 December 2008.

4.2 Attainment of foreseen goals of the project

Objectives	Achievement	Positive / Negative result
<p>1. To build public interest campaign against torture and impunity for the improvement of the state of rule of law, democracy and human rights culture.</p> <p>2. To initiate public advocacy on the need of improving Nepalese criminal justice system to check torture and impunity.</p>	<p>Satisfactory</p>	<p>The activity of campaign and advocacy was selected for this objective. Total 4 events demonstration and public meeting and 3 events interaction were held. Lobbying with legislative organs were held 7 rounds. These activities contributed to build public interest campaign. The project has sensitized the general stakeholders that the existing Nepalese criminal justice system is not sufficient to address the problem of torture and impunity. Hence, the project has stressed the need of an effective new law to address the problem of torture and impunity. The project produced publications have made important impact for achieving these objectives.</p> <p>Office of the Attorney General has initiated programs on the role of public prosecutors to end impunity taking our publication "International Instruments Developed Against Impunity" as a major resource material. The 18 instruments translated and published under this have helped stakeholders to understand about various dimension of ICC. This publication has especially disseminated information about impunity, criminal justice and right to reparation, transitional justice, war crime and crime against humanity, torture and abuse of power, disappearance and provisions of international law regarding civil and political rights. It has helped to understand legal and policy level gaps in the domestic justice system in the provisions including torture, impunity, justice to victim and reparation. The interactions, consultations accomplished under draft legislation helped to explore the areas of policy and legal reform required to addressed the problem of torture and impunity in the existing criminal justice system of Nepal. It has helped to realize the current situation and need of reform.</p>
<p>3. To sensitize target groups on the importance of Rome Statute 1998 and optional protocol of CAT 2002 and to create a pressure on government for signing, ratifying and implementing the same.</p>	<p>Satisfactory</p>	<p>The project has been successful to sensitize major stakeholders on the importance of Rome Statute 1998 and OP CAT. The stakeholders have realized the need to ratify these instruments. Representatives of government and political level have expressed their commitment for ratification of both of these instruments. To ensure rule of law in the country, the government should ratify Rome Statute without any delay. The political leaders were quite timid when it came to ratifying the Rome Statute. The government is reluctant in its efforts to curb impunity in the country.¹⁵ The project has exerted pressure for ratification; however, the government has not ratified these</p>

¹⁵ Views expressed by Ananda Prasad Dhungana, Chief Whip of Nepali Congress and Mahendra Bahadur Pandey, Chief Whip of CPN-UML at a program organized by FOHRID on 7 July 2007 in Kathmandu.

		instruments till now. Reason behind this is the existing unstable political situation and lack of political consensus for this purpose.
4. To prepare a Resource Book on the Rome Statute and ICC in order to impart the fundamentals of the instruments to the target groups.	Satisfactory	A resource material on International Criminal Court was prepared under this project based on An Introduction to the International Criminal Court authored by William A. Schabas. The book published 2500 copies was estimated to be 400 pages in the beginning. But Rome Statute was published separately in the International Instruments Developed Against Impunity. Therefore, this book was limited to 220 pages. ¹⁶ The book divided into 9 chapters has incorporated the topics including Introduction, Creation of the Court, Crimes prosecuted by the Court, Jurisdiction and admissibility, General principle of criminal law, Investigation and pre-trial procedure, Trial and appeal, Punishment and the rights of victims, Structure and administration of the court. In this way, the book has been successful to sensitize the stakeholders on the basic information about ICC. It is found that the publication is disseminated to the stakeholders including judges, lawyers, law enforcing agencies, political leaders, security agencies human rights campaigners, members of civil society etc.
5. To draft legislation relating to the rights and compensation for the victims of torture based on the UN declaration of Basic principles of justice for victims of crime and abuse of power 1985 and CAT.	Satisfactory	The project has successfully accomplished draft legislation. This Bill Relating to Torture 2065 has been prepared as an attempt of domestication of CAT. International instruments including UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985 and CAT have been utilized as reference for this. Torture has been termed as a criminal offence in the Bill. It has framed the measures to address rights and compensation to the victims of torture. This is the most effective law formulated so far in Nepal to address torture. This can be a milestone in the Nepalese criminal justice system if it is passed by the parliament. ¹⁷

4.3 Expected result level

While assessing the issues evaluated above, it can be said that the project was successful to attain the expected results as envisaged at the time of project designing. Some of the results are being attained and some of them are not attained. Achievement status of the expected results as presented in the Logframe and it's impression is mentioned below:

#	Expected Results as presented in the Logframe	Achievement/ Impression
1.	Public interest campaign will be established against torture and impunity and its nationwide replication.	This expected result has been achieved. There is nationwide reflection of this. Campaign against impunity has been established. Capacity of the human rights and civil society has been enhanced to conduct advocacy against impunity.

¹⁶ Based on a discussion with FOHRID project team on 4 December 2008.

¹⁷ Views expressed by Advocate Hari Bahadur Karki, General Secretary of AJAR Nepal in an interview on 4 December 2008.

2.	Target groups shall realize the need of an effective law to check torture and impunity and they will start to work for improving it.	This expected result has been achieved. The target groups have realized the need of an effective law to control torture and impunity. A consensus has been built up on the need to address the problem of torture and impunity from the policy level through law reform.
3.	Government will sign, ratify and implement the Rome Statute and Optional Protocol of CAT.	This expected result could not be achieved. The government did not ratify Rome Statute and Optional protocol of CAT in the project duration. However, this project was successful to establish a mechanism of human rights and civil society to launch a campaign for ratification of Rome Statute and OP-CAT. The government will, sooner or later, ratify these instruments if this mechanism can continue its organized efforts. The present efforts under the campaign shall facilitate domestication of Rome Statute and OP-CAT after these instruments are ratified by Nepal. Therefore, it is necessary to continue this campaign.
4.	Target groups will express and claim the need to sign and ratify Rome Statute and Optional Protocol of CAT and its implication for fostering HR culture and rule of law.	The project was successful to achieve this expected result. The target audience expressed their voice for ratification of Rome Statute and OP-CAT at the highest level. However, the expected result for fostering human rights culture and rule of law was not achieved as the government did not ratify Rome Statute and OP CAT.
5.	A Resource Book on ICC and Rome Statute will be prepared, published and disseminated widely.	This expected result was achieved. The Resource Book on ICC and Rome Statute was prepared, published and disseminated widely. This publication was mainly disseminated to the government representatives, law enforcing agencies, security agencies, policy makers, lawyers and human rights community.
6.	Draft legislation on rights and compensation for the victims of torture will be prepared and passed from the Parliament.	This expected result has been achieved partially. The draft legislation has been prepared. But it could not be passed from the parliament in the project duration. However, this draft has been acclaimed by stakeholders as an aid to make the future law relating to torture a perfect one. Similarly, continuous pressure through a new project is necessary to pass this Bill from the parliament. ¹⁸
7.	This public interest based initiative will impart multiplier effect in the long term.	This project was based on advocacy and policy level intervention. From this perspective, it was a public based programme. It shall gradually impart multiplier effect in the long run. For example, the project produced materials including International Developed Instruments against Impunity, An Introduction to International Criminal Court, Bill Relating to Torture 2065 are being used by the

¹⁸ During an interview, FOHRID President Birendra Prasad Thapaliya informed, "This draft Bill Relating to Torture, 2065 has been submitted to the Minister for Law, Justice and CA Affairs and Deputy Prime Minister and Minister for Home. We have heard that Home Ministry has been preparing a new law relating to torture. We have dispatched request letters to the CA Members to pass this Bill. We are not sure whether our draft will be tabled in the parliament as recommended because the government is also preparing their own draft. Nevertheless, we are sure that the important provisions recommended by us shall be incorporated in the new law."

		law enforcing agencies, security agencies, policy makers, judges, lawyers etc. Through these publications, they shall understand the fundamental aspects of international criminal justice system. These publications shall provide information on international policies, theories and practices developed against impunity. This knowledge shall of course contribute to address the problem of impunity with reform in the domestic policies and laws.
8.	Formation of long term strategy plan for implementation of Rome Statute and Optional Protocol of CAT at the domestic level.	This expected result was partially achieved. As the Rome Statute and OP-CAT were not ratified in the project duration, the long term strategy plan was prepared on the basis of current need assessment. Based on this situation the strategy action plan has been prepared dividing into 2 parts; one for ratification and another for implementation after ratification.
9.	Torture will be defined as criminal offence.	The efforts made under this project can help define torture as criminal offence. The Interim Constitution of Nepal, 2007 has termed torture as punishable crime. The project had made rigorous efforts to incorporate provision on torture in the Constitution. It is certain that torture shall be defined as criminal offence when the Bill prepared under this project is passed as it recommended or an amendment to the existing Compensation Relating to Torture Act of 1996 is made.
10	Institutional capacity building of FOHRID.	FOHRID has purchased desktop computer-1, laptop-1, printer-1 and LCD projector-1 under this project. FOHRID team has got good knowledge and experience on the issue of torture and impunity. A list of activities to be implemented after ratification of Rome Statute and OP-CAT has been prepared. Though these achievements, FOHRID has built its capacity to work for domestication of Rome Statute after its ratification in the future.

4.4 Analysis of project assumption and risks

#	Assumption & risks	Validity / Comment
Assumption	<ol style="list-style-type: none"> 1 All target groups will be motivated and join the initiative. 2 Maoist insurgency will be resolved and democratic government will be established. 3 Government and political parties must be ready to combat torture and impunity and sign and ratify Rome statute and Optional Protocol of CAT. 4 Target groups must be involved in this initiative. 5 Government must express commitment and start action and process against impunity and ratify Rome Statute and Optional Protocol of CAT. 6 Target groups will be sensitized and convinced to combat against torture and impunity and to create pressure for signature and ratification of Rome Statute and Optional Protocol of CAT. 7 Government and political parties including Maoists must be positive for protection and promotion of human rights. 	<p>Valid. Most of the assumptions made during project designing have been found to be valid. One of the major hurdles was that the government and political parties were not ready to combat torture and impunity and sign and ratify Rome Statute and Optional Protocol of CAT. Though they expressed verbal commitments to this effect, they failed to implement it. So, the assumption that the political parties may not be ready to ratify Rome Statute and OP-CAT was valid.</p>
Risks:	<ol style="list-style-type: none"> 1 Political parties and government may not take strong decision against torture, impunity and for law reform. 2 The issue of impunity may be shadowed for some years during the transitional period of political transformation. 3 Political parties and role of government. 4 Political parties including Maoists may ignore this issue as signature and ratification of Rome Statute will open door to take action against their own leaders and cadres. 	<p>Valid. Political issue was dominant when the nation entered into peace process. The issues of torture, impunity, ratification of Rome Statute became less highlighted. Attention of the government, political parties and other stakeholders was concentrated to attain logical conclusion of the peace process. The issues of torture, impunity, ratification Rome Statute and OP-CAT were dominated by the political issues of ending monarchy, establishing federal republic system, restructuring of state, constituent assembly election and so on. These risks were carefully identified during project designing.</p>

4.5 Strength of project

This project is relevant and useful in the present Nepalese context. It has adopted the Objectives and Strategies of EIDHR. The project has tactfully linked together the issues of torture, impunity and ratification of Rome Statute and OP-CAT. As Nepal has already become state party to the CAT, it is contextual to demand ratification of OP-CAT and formulate a new law in place of the existing Compensation Relating to Torture Act of 1996. The project is organized in terms of its structure and issues raised. Likewise, the project has integrated the issues of protection and promotion of human rights, promotion of rule of law and a complete democracy to conduct advocacy at the highest level. The project has been successful to bring stakeholders from diverse levels to a same forum to accomplish the activities. It is an evidence of strength of the project that it has been able

to establish the ownership of other organizations in the project outcomes. Participation of different national and international organizations and individuals was ensured in the project activities for this purpose.

The objectives, relevance and methods of the project were determined suitably. Appropriate selection of these three components is the strength of the project. There is uniformity in the selection of target groups and issues. Selection of the stakeholders from the political level is due to their role to pass the Bill Relating to Torture and ratify Rome Statute. Stakeholders from the government level have been selected for their role in policy reform, formulation of new law relating to torture and implementation of Rome Statute after its ratification. Stakeholders from the non government sector were selected considering their role to exert pressure for domestication of Rome Statute and OP-CAT and continuous follow up of implementation status. Levels of problems were identified, and the stakeholders were selected according to their level of roles relevant to the determined issues. Hence, it is strength of the project that it was designed by selecting stakeholders against issues in terms of their role to intervene in the issue.

There is good relevance between the issues intervened by the project and the region of implementation. Implementation method and its various aspects are relevant. This project has considered gender issue, rights of women, children and conflict victims in the mainstream priority. Impact of the project is satisfactory. The project has promoted rights based approach at the highest level. It is found that FOHRID has excellent institutional experience and expertise to implement activities of this project. The project has laid significant impact in the situation of project target groups. There are adequate grounds to ensure sustainability of the project. Budget allocation is appropriate in light of the activities selected in the project.

4.6 Weakness of project implementation

There were no significant weaknesses to impact the project implementation. However, unstable political situation of the country had somehow negative impact to the project. Likewise, the price hike in the last 2 years had negative impact in the budget allocation.

It is found that the project implementation team has carefully tackled this situation. Due to the undergoing peace process, the whole country was engaged in the political issues such as election of constituent assembly. Because of this the involvement of senior leaders could not be arranged as expected in the implementation. This is also a weakness of the project. Likewise, the efforts to involve representatives of CPN (Maoist) were not satisfactory. Despite repeated efforts, lobbying meeting could not be arranged with the current Prime Minister. "We have been trying to meet new Prime Minister to submit him a memorandum requesting ratification of Rome Statute. But we are not given appointment".¹⁹ The project team faced difficulty to address the issues of 3 thematic areas. For example, torture is the issue of criminal justice system. Impunity is related to overall political situation and serious violation of human rights. Ratification of Rome Statute is possible through high level political consensus and political decision. Therefore, it was really a difficult task to arrange coordination between the three issues and the areas relevant to them through a single project. In this way, the project is a bit ambitious while considering the project cost, activities and issues. This certainly invited some weaknesses in the project implementation. The project focused to the central and regional level for its implementation. Limitation of the project in terms of means and resources made it difficult to accommodate the issues of grassroot level. Therefore, it is the weakness of the project that it could not reach the grassroots level effectively.

5. Lessons learned

FOHRID has gained both external and internal learning through this project implementation. Firstly, the external learning was that the government and political leaders express their commitment for ratification of Rome Statute and end impunity but

¹⁹ Based on discussion with Charan Prasain, Convener, Joint Forum for Human Rights on 07 January 2009.

they are not ready to implement their own commitments. It is found that the human rights and civil society needs to launch strong and intensive campaign to implement their commitments against impunity. Support, cooperation, lobbying and pressure from the international level are required for this campaign. It was learned that the issues of impunity and ratification of Rome Statute are directly affected by the political situation.

Second learning is related to the implementation of project with the cooperation of EC. We received only negative remarks from local donors while submitting proposal for further funding in other projects. The local donor agencies did not want to extend financial assistance to FOHRID saying that we have to seek further funding from the EC, as we have good relation there. This experience has compelled us to think that it is difficult to work with other donors once we receive funding from the EC²⁰.

It was found that the participation of human rights and civil society can be arranged easily when the project addresses burning issue of the society. The stakeholders from the political, government and non-government sector have been involved actively in the project implementation. Such participation is rarely found in other projects. But, the stakeholders from diverse levels have come together in this project. Therefore, it is found that the involvement and collaboration of the stakeholders can be arranged easily if the issue of the project is appropriate. This project has been successful to establish the issue but effective follow up is necessary to succeed in addressing the issue of torture and impunity and ratification of Rome Statute. The issues of the project have addressed specific problems and prioritized them; however, it is found that much is yet to be done for domestication of international instruments ratified by Nepal.

6. Recommendation and Conclusions

6.1 Impunity is a complex problem. This project has forwarded a campaign for intervention on the root of torture and impunity. It is necessary to continuously intervene in the issue of impunity. It is necessary to strengthen and continue the activities of the coalition formed to combat impunity. Likewise, it is necessary prepare advocacy and training materials based on the resource materials prepared under this project to combat against impunity and take them to the grassroots level.

6.2 Torture is a issue directly related to criminal justice system. Torture is practiced in Nepal from the time immemorial but we have the record of its history for the last 8 decades. This problem has badly crippled criminal justice system. Therefore, it is necessary to carry out organized and systematic steps for eradication of torture.

6.3 Continuous advocacy and follow up is necessary till the parliament passes the Bill Relating to Torture 2065 prepared under this project. This is an excellent and practical Bill proposed on behalf of the civil society. If passed from the parliament, it can significantly contribute in the Nepalese criminal justice system to address the problem of torture and impunity. Hence, it is recommended that a continuous follow up and advocacy is necessary in favour of this Bill to pass it from the parliament.

6.4 I recommend to the Contracting Authority and Implementing Organization FOHRID to take effective measures to implement the action plan prepared under this project for ratification of Rome Statute and OP-CAT.

6.5 Publications/dissemination is a reliable and effective means for knowledge transfer from one to another. As knowledge empowers people and the overall goal of the project is to equip the target groups with the knowledge and enable them to work for making impunity free society, this indispensable component of the project played significant role to attain the determined objectives. It was realized that regularity and up to date information of the movement and newly developed principles and practices in the language of users would always be praised by the valued stakeholders.

²⁰ Based on a discussion with FOHRID team on January 8, 2009 and Final narrative Report.

6.6 It is necessary that the Contracting Authority / Implementing Organization FOHRID should pay heed to the feedback received from the target audience during project implementation. This is because it would be effective to develop further projects and activities based on the feedback received under this project.

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