

Final Evaluation Report

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Project - Ending Unlawful Killings and Impunity

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Implemented by:



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Acknowledgement

I am pleased for this opportunity to carry out external evaluation of "Ending unlawful killings 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 that the project is innovative and sensitive in light of the issue it has raised. The project has enabled target groups to understand impunity from a new perspective, replacing the traditional concept of linking it with all kinds of crimes and misdeeds. The project has also sensitized the target audience on impunity as a serious challenge to state mechanism, democracy and rule of law.

I thank the FOHRID project team for their ready assistance at any time to accomplish this evaluation. The colleagues in the FOHRID team have indeed made their best efforts to bring the evaluation in the present form. Interaction was conducted with the limited representatives of the target groups. The correspondence with target groups, documents of PIL cases, 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 President 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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Kathmandu

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Abbreviations

AHRC	-	Asian Human Rights Commission
AI Nepal	-	Amnesty International Nepal
CFP	-	Call for proposal
DAO	-	District Administration Office
EC	-	European Commission
EIDHR	-	European Initiative for Democracy and Human Rights
EU	-	European Union
FGD	-	Focus Group Discussion
FIR	-	First Information Report
FNJ	-	Federation of Nepalese Journalists
FOHRID	-	Human Rights and Democratic Forum
GoN	-	Government of Nepal
HMG	-	His Majesty's Government of Nepal (Now Government of Nepal)
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
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
PIL	-	Public Interest Litigation
SC	-	Supreme Court
SPA	-	Seven Party Alliance
SWC	-	Social Welfare Council
WTO	-	World Trade Organization

Evaluation Report on Ending Unlawful Killings and Impunity Project

1. Introduction

1.1 Funding agency/ies and call for proposal

Nepal established bilateral relations with the EU in 1975. Agreement for cooperation came into effect between the two from 1996. Nepal government and EU hold Joint Commission every other year under this agreement. EU member countries and the European Commission coordinate policy and cooperation programs for Nepal. Nepal has been included in the cooperation list of European Initiative for Democracy and Human Rights (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 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. EU had issued call for proposal (CFP) under this program in 2005. FOHRID submitted a proposal and received grant under the CFP for Micro-Projects Programme.

The Micro-Projects Programme is administered by the European Commission (EC) Delegation to Nepal. FOHRID received grant under the 2005 CFP, the third of this kind, the first and second Call were launched in 2003 and 2004 respectively.

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.

As a dynamic organization, under its Mission, 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 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 stakeholders or grassroots level beneficiaries meant to organize the target groups for their own needs. RESEARCH–ACTION– ORGANIZATION model is the modality of FOHRID.

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 initiative 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 a 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:

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

FOHRID has already implemented Ending unlawful killings and impunity project and is implementing Initiative to combating against torture and impunity under EIDHR funding. Likewise, Campaign for constituent assembly is being implemented under financial assistance from ESP. Moreover, FOHRID has been implementing Initiative for conflict affected people, 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 Since 2006. FOHRID has also initiated internship scheme for national and international students. Interested students studying in the +2, Bachelors level or Master's level are being provided internship opportunity for 1 to 6 months.

FOHRID has already 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 and other national, regional and international organizations in the fields complying with FOHRID vision.

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 in this organization. Ten of them are working in the 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 "Ending unlawful killings and impunity-project" in response to the EU CFP under EIDHR in 2005. Duration of this project was 24 months from January 2006 to December 2007. This project, prepared under **EuropeAid/EIDHR 2005/C/G/HP, Priority B (Strengthening the justice system and rule of law)**, aimed to combat impunity for promotion of human rights and improving rule of law in Nepal through campaign and advocacy. The project was implemented in the Kathmandu valley (Kathmandu, Lalitpur, Bhaktapur districts) in the central region.

Project abstract for this project was: Ending unlawful killings and impunity is necessary for protection and promotion of human rights; strengthening democratization process, justice system and improving rule of law in Nepal.

Likewise, milestones / key indicators of the project were campaign position, public interest litigation (PIL) cases and decision of the Supreme Court, structure and activity of the Task Force, draft legislation document and improved legislation, security force will investigate and take action in at least 10 cases of unlawful killing with impunity, Study Report, Final Project Evaluation Report.

1.4 Project objectives

Overall objective(s)

1. To end unlawful killing and impunity for strengthening the rule of law and promotion and protection of human rights.
2. Protection promotion and respect of human rights according to the Universal Declaration of Human Rights - 1848 and other relevant international instruments.
3. To establish culture of peace in conflict management.
4. To strengthen democratic process and culture through institutional capacity building at all levels.
5. To enhance institutional infrastructure and capacity building of FOHRID.

Specific objective

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

1.5 Project activities

Major activities of this project were as follows:

1. Campaign and advocacy

Campaign and advocacy is one of the major components of this project. This was conducted to achieve the objective No. 1, 2, 3, 4 and 6 of this project. Maximum participation of the target groups was ensured for this action. Following additional activities were also selected under this activity.

1.1 Public hearing and mass demonstration: 4 events

1.2 Focus group discussion: 4 events

1.3 Interaction / round table discussion: 5 events

2. Draft of legislation

Second objective of this project was drafting a specific law to end impunity. Aim of this activity was to prepare an effective law to address the gross violation of international human rights law and serious violation of international humanitarian law.

2.1 Recommendation / lobbying

Recommendation and lobbying were the two separate phases of this activity. Firstly, the draft legislation prepared under Activity 2 was submitted to the concerned government authority. Secondly, lobbying was conducted to draw the attention of the target groups on the recommended Bill and for its follow-up and implementation. This was expected to ensure improvement in the legislation. Under Lobbying, memoranda were submitted to the major stakeholders to pressure for policy reform.

3. Prosecute 4 public interest litigation cases on impunity

It is found that this activity has been selected to file four PIL in the court to bring the perpetrators of unlawful killings into public notice. Accordingly, PIL cases were filed in the Supreme Court in respect to 4 incidents of serious violation of human rights. The cases were selected to achieve maximum far reaching consequences and to draw the public attention in the issue of rule of law.

4. Task Force formation

A Task Force was formed to launch a long-term struggle to end impunity. The Task Force was formed with the representation from all the stakeholders identified by this project. A permanent Secretariat was established to effectively coordinate the activities of the Task Force. A 7 member Steering Committee was formed to implement its activities. Participation and contribution from the members, technical experts and stakeholders was ensured through flexible policy of the Task Force. The Task Force itself determined independently the issues and modalities for its effective functioning.

4.1 Task Force mobilization

The Task Force was mobilized at the highest level. Its focus was to work particularly with long-term vision for lobbying, fact finding, campaign against impunity, promotion and protection of human rights and strengthening of democratization process and rule of law. It made meaningful contribution in favour of creating impunity free society. Through constant monitoring and follow up, the Task Force attempted to guide towards ending impunity.

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

A thorough trend analysis of impunity was carried out under this action. It covered political and legal dimensions of impunity. This study can be utilized as a reliable resource material in the future for taking actions against cases of impunity. Detail concept framework in this connection was prepared by consulting relevant experts and target groups.

6. Publication and dissemination

This is an indispensable component conducted to attain the outcomes determined by the project as this is a campaign based project. Following publications were brought out under this action:

- Study report based on the Activity 5 – 1500 copies
- Final Programme Report (English & Nepali) – 500 copies
- Six issues of FOHRID Human Rights Monitor (English & Nepali) – 6000 copies
- Draft legislation recommendation (Nepali & English) – 1000 copies

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

A long term intervention strategy plan of action was prepared at the end of this project. This was worked out by linking with the activities of the Task Force. This was designed to ensure continuation of issue-wise intervention. This enabled to sustain and strengthen the campaign on the basis of local ownership. With these efforts, the project aimed to make Nepal a proud country with impunity free society.

1.6 Project target groups

Target groups of this programme were concerned Ministries, government officials, Office of Attorney General, National Human Rights Commission, Nepal Bar Association, policy makers, law enforcing authority, political parties and their cadres, Royal Nepal Army, Nepal Police, Armed Police, trade unions, human rights organizations, occupational groups, lawyers, journalists, women, Dalit and ethnic communities at the central level. On the basis of their level of involvement and benefits they obtain. For convenience in implementation, the target groups were categorized as follows:

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

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

1.7 Expected results of project

According to the Logical framework, the expected results of this project were as follows:

1. Public interest campaign will be established to end impunity and the security forces will be accountable to respect HR.
2. Drafting of legislation recommendation to end impunity.
3. Introducing HR protection and impunity related issues as public interest litigation in the court practice.
4. The security forces will investigate cases of unlawful killing and take action against the responsible security personnel.
5. A national level task force will be established to combat unlawful killings and impunity.
6. A report on the impunity situation will be prepared, published and disseminated widely.
7. As a campaign based programme this will impart multiplier effect in the long term.
8. Institutional capacity building of FOHRID will be obtained.

2. Evaluation methodology

2.1 Literature and secondary information review

While reviewing the internal evaluation documents, evaluation is based on both qualitative and quantitative assessment of the key elements of the project documents and Logical Framework. The Evaluator made an extensive review of relevant project documents, publications that describe domestic legal provisions, government's policy strategy and priority with regard to the key sectors / sub-sectors and thematic areas covered under the project scope.

Based on the ToR and discussion with the FOHRID project staff, the Evaluator focused on a limited number of representative project sites rather than visiting all project sites. This was made possible with excellent support by the project staff. The evaluation exercise primarily relied on a systematic collection of information from project staff focusing on the project characteristics, activities and effects.

Content analysis method or the document method has been applied for collection of the secondary information related to the project activities and policy environment for the project. Many secondary sources such as internal evaluation and monitoring report, activity reports, financial statement, actual expenditure reports, audit reports, e-mail correspondences with EU and target groups, 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 a key tool for the collection of secondary data. Document method is an 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, documents method can be treated as a source of 'data in their own right'- in effect an alternative to questionnaire, interview or observation" (Denscombe 1999, p.p. 156-59).

2.2 Questionnaire and interview

FOHRID staff and target groups of the project were interviewed to make this evaluation result oriented. Questionnaire was used as important tool for data collection. All FOHRID project staff have administered by the questionnaire for information collection. Verbal interviews were carried out with some representative of the target groups. Information was gathered from the project staff and consultant by developing a separate questionnaire. This methodology helped to accomplish this evaluation effectively.

This method has been applied for collection of qualitative data. Various methods of interview, such as semi structured and open structured, have been structured. Program Coordinator and other staff of the project have

been interviewed openly and wide variety of information has been collected. 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

It is learnt by consulting FOHRID project team that this project was prepared in 2005. Nepal was facing climax of internal armed conflict at that time. Reporting of unlawful killings and impunity were common at that time. Government security forces and insurgents were unwilling to accept accountability to the incidents of human rights violation. Situation of unlawful killings and impunity was alarming. The Damocles Network and Reporters without boarder had placed Nepal on "The Impunity Black List" which includes twenty one countries, where impunity is commonplace. Likewise, AHRC wrote that in Nepal, "Violation of Human Rights becomes Government culture." Under such circumstances, even to raise the issue of impunity was a daring task. Likewise, the internal armed conflict and militarization coupled with the direct rule of the king had weakened the concept of rule of law. In this backdrop, it was very much contextual and essential to raise the issue of controlling violation of human rights and ending impunity.

At the time of preparing the project proposal, unlawful killing, impunity and escaping justice were occurring in the context of severe human rights crisis and a breakdown in the rule of law and justice system. Therefore, an intervention to end impunity could contribute in strengthening the justice system and application of rule of law. Widespread impunity was made possible with the indifference of the concerned authority to ensure protection and promotion of human rights. The greatest challenge facing Nepal in promotion and protection of human rights were the unlawful killings and emancipation through impunity which were common in the security forces and the Maoist insurgents. Women and children are badly affected by this situation created by the ongoing armed conflict between the State and the insurgents.

The widespread extrajudicial executions carried out by the security forces are made possible by the environment of impunity within which these security forces operate and their disregard for the rule of law. Impunity is created on a number of levels, as security forces on the ground hide evidence of killings, organizations attempting to investigate abuses face deliberate obstruction and practical difficulties, and mechanisms intended to safeguard against abuses are eroded. However, it is the failure of the highest levels of the government and security forces to ensure that abuses are investigated and those responsible are punished.

Widespread impunity is the main reason behind deteriorating human rights situation in Nepal. Until and unless adequate measures are taken to remedy the situation, improvement in the overall human rights situation remains an untenable goal. In this backdrop, it is the achievement of the project to accept this need as a challenge and raise it in the national level at the time of internal conflict and direct rule of the king.

3.1.2 EIDHR goals and strategies

Main goals of EIDHR CFP for 2005 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.

Likewise, the strategy for the EIDHR was based on its ability to promote human rights and democratization objectives of the EU. 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.

3.1.3 Targeting the most relevant group

The project is very contextual with the objectives of EIDHR. It contributes to the EIDHR objectives in strengthening the promotion of freedom, human rights, democracy and rule of law. Ending impunity and promotion of rule of law are the entry points to attain these goals. At the time of drafting proposal, the greatest challenge facing Nepal in promotion and protection of human rights were the unlawful killings and emancipation through impunity commonly found in the security forces and the Maoist insurgents. Promotion and protection of human rights and democratization is not possible till the guilty security personnel and the insurgents involved in unlawful killings enjoy emancipation through impunity. At such a situation, realization of

rule of law was impossible till such guilty persons escaped from justice system. To make the concerned individuals accountable for unlawful killings by them and to bring them under justice system was the pre-condition for promotion and protection of human rights. This was felt necessary for strengthening the rule of law and democratization. This shows that the objectives of the project are targeted the most relevant group identified by the EIDHR. The activities of this project aimed to launch at the highest level an issue-based intervention against the trend of impunity and practice of escaping justice prevalent in the security forces and the Maoist insurgents. This activity has direct relevance with the EIDHR Micro-project Programme Priority B 'Strengthening the justice system and the rule of law.'

Likewise, the project had direct relevance with the following areas of Micro-project Programme Priority B 'Strengthening the justice system and the rule of law. Because, the project placed at highest level the aims to Strengthening the Justice System and the Rule of Law including the sector of Advocacy for improved application of human rights, improving rule of Law and legal protection of Human Rights, the justice system and advocacy against torture. These issues were the highest priority of the 2005 CFP of EIDHR.

Rather than focusing any specific issue of a community, the project has aimed to address the problem of impunity prevalent in the country. The widespread impunity can certainly influence the livelihood of communities. There is relevance between the issue of impunity and the grievances of communities in the country. The project has raised at highest level the issue of unlawful killings of family members of victims by the security forces. It has also raised the voice of those victimized from the insurgents. The project has filed PIL in the court for justice to the victims in the case of killings of Chepang and other labourers at Kotwada, Kalikot and the Tamang youths killed in Kaule, Nuwakot. These people represent the most vulnerable and marginalized community. They are very poor and members of backward community without access to any facilities. They were more vulnerable when their family members became victim of unlawful killings during armed conflict. Therefore, the project aimed to work directly for the benefit of poor and the vulnerable people.

This project to intervene in the issue of impunity started when armed conflict with unlawful killings and impunity was common in Nepal. This posed a serious threat to the respect of human rights and protection of rule of law. Impunity was main cause behind this. Under such circumstances, it was very much necessary to initiate a campaign against impunity in the target country. This can be proved through following description.

In the context of ongoing armed conflict in Nepal, the problem of impunity was directly related to the armed forces of both the government and the insurgents. Security forces of the government are responsible to ensure law and order situation in the country. The law enforcing authority and the leaderships of the security forces should be held accountable when they cause unlawful killings and enjoy emancipation or escape justice through impunity.

Under this backdrop, the project selected government security forces and the insurgents as target groups. As impunity is the national and political issue, it should be resolved through the target groups at the national level and political sector. The project has clearly addressed this need. The project has been initiated by ensuring participation of the national level stakeholders. In this way, it can be said that the target groups have been selected appropriately. Following paragraphs explain the reason behind selecting the particular target groups.

Political parties, judiciary, policy makers, security forces, lawyers, journalists and the civil society are the key stakeholders for the campaign to eliminate the widespread impunity; therefore, none of them can be separated from this campaign. True solution for the problem can be fished out through combined effort of the agencies or individuals responsible for problems, the victims and the aware class of people who struggle against impunity.

Impunity is the problem of the state. For this problem, Government and the governance system, leadership of the security forces and the policy makers are responsible. This proposal has identified the problem and the individuals and the agencies responsible for creating the problem. Therefore, there is a good relevance of the action to the target groups.

Selection of target groups and activities has been done appropriately. The activities of this proposal show that they are determined to meet the necessities of the target groups. For example, draft legislation and recommendation with the policy makers, to investigate cases and taking action with the security forces, case filing with the lawyers, public interest campaign with NGOs, pressure creation with the media, formation of the Task Force with the whole civil society justify the relevancy of this project.

Similarly, target groups are selected from both government and non-government sector. Representatives from the government are held responsible for the resolution of the problems. The project will encourage non-governmental side to continue their struggle against the problems. In this way, the target groups have been selected to eliminate impunity from the country. The project will encourage the non-governmental sector and activate government to resolve the problems.

Civil Society, HR organizations, women, dalit, ethnic communalities, common people, education institutions, government agencies, political parties and their sister organizations, trade unions, journalists have been selected, HR organizations, law enforcing authority, media, political party, judiciary, lawyer, policy makers under campaign and advocacy. Ex-judge, policy makers, expert and the target groups identified by the have been selected for Draft legislation. PIL case filing has been undertaken by selecting victims and their family members as target groups. Task Force Formation has accommodated representatives from NHRC, Bar

Association, pioneers of HR movements, HR activists, Federation of Nepalese Journalists (FNJ), senior journalists, political parties etc. In this way, the selection of the target groups and the activities seems appropriate and relevant.

3.1.4 Relevant issues

The project has raised a relevant issue. It is contextual in itself to raise the issue of impunity in a country which is going through armed conflict. Non discrimination and effective equality of treatment has been adopted during project implementation. The project had highly assured the effective participation of those having no access to social, economic and public life in the project activities. For instance, the project advocated for justice of the family members of the victims. Likewise, the project has raised the issue of justice to the victims from minority community of Chepang and ethnic community Tamang. While considering this, we can say that the project has prioritized rights of the marginalized communities, though it was in a small scale. The issues raised and the activities implemented have laid positive impact in the national policy level. The national policies and programmes have been modified to account the interests of minorities. For example, as an impact of the PIL cases filed for justice to the victims of unlawful killings and advocacy has compelled the government to prepare policies in favour of conflict victims. Likewise, the peace accord and the Interim Constitution have addressed the issue of impunity. In this way the project has enhanced the promotion of tolerance and intercommunity understanding. Despite the above, this project has not addressed the issue of rights for a specific minority groups. This is because it has aimed to address the issue of national concern.

3.1.5 Modalities of project

The project has been successful to bring together the identified target groups and general public to address and resolve the issues raised by the project. The project has brought together the target groups during implementation of campaign and advocacy, process of draft legislation, and formulating action plan. All the activities identified by this project seem to be contextual with the objectives of the respective CFP of EIDHR. Strengthening the justice system and the rule of law is not possible till impunity is prevalent in the society. Nor liberty, democracy and respect for human rights and the rule of law can be guaranteed when impunity obstructs democratic process. Advocacy in the issue of impunity, law against impunity, filing PIL against the incidents of unlawful killings and formulation of long term action plan to combat impunity are the practical measures to end impunity from the face of the country. The project has understood this and formulated and implemented its activities accordingly. While observing from this point of view, the project activities are relevant to almost all the objectives of the EIDHR. The project has applied particular planning technique and modalities. For example, the project prepared under the modality of campaign and advocacy has addressed the need to end unlawful killing and impunity which is entry point to meet the objectives of the programmes of EIDHR. Special planning is made for implementation of the project for example, the drafting and recommendation process of Impunity Bill has succeeded to ensure wider consultation and participation of high level government authority and experts in the relevant field.

The project has established functional linkage between the grassroots practice and national policies. It is clear that the people from the grassroots level have been most affected by unlawful killings and impunity. They were the people mostly affected by internal armed conflict. The project raised that this problem should be addressed by making national level policy. The project determined drafting of impunity prohibition Bill and PIL case filing in the Supreme Court. This worked as a bridge between the grassroots practice and national level policies.

By bringing together the conflicting parties, the project oriented the conflicting interests among the parties in conflict to respect to peace and human rights. This has helped to develop harmonious relationship in the society.

This project is innovative in itself. This is probably the first project addressing solely the issue of impunity in Nepal. As this is a campaign based project, some of the activities match other projects also. Innovative concept applied in this project is to draft legislation to end impunity and filing PIL on the incidents of unlawful killings. These activities were performed for the first time in Nepal.

3.1.6 Scale of project

Apart from this Ending unlawful killing and impunity-project, FOHRID has been implementing Initiative to combat against torture and impunity and Advocacy for social, economic and legal justice for victims of conflict through Truth and Reconciliation Commission. All these projects have different size and scale. However, all these have relevance in terms of issues they have raised. The project under review and the next project have addressed the problem of impunity in terms of unlawful killings and torture whereas the third one has focused ensuring justice to the conflict victims in the transitional phase. The third project has also addressed the problem of impunity to some extent. While comparing these three, all these project have attained many similar learning. Mainly it was found that the issue of impunity cannot be addressed effectively till we do not file PIL in the cases of human rights violation. Similarly, it was learned that the issue of impunity needs to be raised from the local level itself. In this way, the project run by FOHRID come to agreement in the issue of impunity. The specific and focused projects have more advantages than disadvantages. It is found that the projects addressing wider scope have helped in the policy formation level. Similarly, the knowledge gained through the wider projects has contributed to bring changes in the mind set and thinking of the target groups. This is

because the projects have been implemented with the objectives of policy reform, public awareness creation and expansion of knowledge. The advantage of large scale project is to bring changes in the concept, ideology and awareness in the society, ultimately to bring policy reform.

3.1.7 Location of project

Choice of location is one of the major factors affecting impact of a project. As impunity is the national problem, it is practical to address it from the national level. Considering this fact, this project selected Kathmandu valley (Kathmandu, Bhaktapur and Lalitpur districts) as project location. This call for proposals of EIDHR had also determined Kathmandu Valley (Kathmandu, Lalitpur, Bhaktapur) in the Central region as location of project. Considering this, the project location matches the objectives of the EIDHR programme.

The project was designed to be implemented in the central or urban areas to deal with the issue of policy reform and legislation recommendation. But for this also, it could have been more effective to go to the rural or periphery to collect information and suggestions from there. This trend could have established ownership of the local people in the project activities. But it could not be expanded outside Kathmandu due to financial constraint. Nevertheless, the project had replication, impact, multiplier effect as the mass media is concentrated in the capital. The media, both electronic and print widely covered the project activities. As media gave priority to broadcast news about the project activities, its nationwide impact, replication and multiplier effect was ensured.

Considering this, we can say that the project location was contextual and effective because its activities were focused in the capital. The project also brought the victims from the rural areas to Kathmandu and held their public hearing, press conference and PIL case filing. This ensured impact, replication and multiplier effect of the Kathmandu centered program to the rural areas.

3.1.8 Project methodology and relevance to and effective for target groups

Methodology of this project aimed to ensure wider participation of the target groups. In the project roll out, the target group and beneficiaries were closely involved in implementing each project activities. Representatives of Civil Society, HR organizations, women, dalit, ethnic communalities, common people, education institutions, government agencies, political parties and their sister organizations, trade unions, journalists, law enforcing authority, media, political party, judiciary, lawyer, policy makers were involved widely in the campaign and advocacy. Ex-judge, policy makers, expert and the target groups identified by the project were involved in the draft legislation. The family members of victims themselves were present in the court while filing PIL cases. Efforts for justice were made with equal participation of FOHRID team and victims. The reports show that representatives of all target groups have been involved in formulating long term strategy plan. Considering these facts, the modality of the project was participatory that ensured ownership of the target groups in the project activities. As the target groups and stakeholders have contributed with active participation in drafting impunity Bill, they can utilize this document as advocacy tool. As a result, they are making their efforts to pass the Bill from the parliament. Various human rights organizations have put impunity in their priority as they have spent their time and expertise in formulating long term strategy.

Ownership of the project has been shared through active collaboration. Wide participation of the stakeholders has been ensured in the Task Force. The organizations involved in this body have ultimately raised the issue of impunity as their own. There are clear grounds to believe that that the ownership of the target groups has been established. For instance, the Task Force is carrying out regular lobbying to pass the draft legislation prepared by this project. Similarly, the members of Task Force are performing regular follow up in the PIL cases filed under this project. The project produced materials have been utilized in the advocacy against impunity.

Though baseline studies were not carried out to prepare the project proposal, the impunity related literature is reviewed. The project has minutely analyzed the situation of impunity at that time. Therefore, it can be said that the project proposal has been by taking reference of enough information. The project beneficiaries are not consulted widely during preparatory phase. However, its is found that some national level institutions such as Amnesty International Nepal, National Human Rights Commission and other organizations were consulted. Wider consultation with the target groups has been carried out in implementing public hearing and mass demonstration, draft legislation, Task Force formation, PIL filing and formulation of action plan. The project activities are relevant to the perceived needs of the beneficiaries. This has been determined in a contextual way.

Methodology: The methodology of campaign and advocacy, prosecute PIL cases, publication and dissemination were applied for the Objectives 1, 3 and 6 above. Draft legislation recommendation and lobbying were applied for the Objective 2. Task Force formation and its mobilization was applied for Objective 4, and study and reporting was applied for Objective 5. To sum up, this project has highly prioritized the methodology of documentation, publication and dissemination.

1. The project was designed to work towards its goal of ending impunity or strengthening the rule of law and promotion and protection of human rights by achieving its purpose of reducing the widespread impunity and making the security forces responsible for their unlawful killings of the innocent civilians.

2. Goal and purpose of this project has strong relevance with the objective of EIDHR Micro-Project programme 2005 and its priority areas B, i.e. strengthening the justice system and rule of law. Having relevance with the objectives and priority of the EIDHR, the methods of implementation were directed towards obtaining certain identified goals.

The implementation methodology for achieving project purpose was to improve performance of the security forces, reduce unlawful killings and put an end to impunity. The project has tried to create an atmosphere where any responsible person of such killings would not have an opportunity to escape from justice system. As this methodology was formulated after minute analysis of the problem, this laid positive impact to achieve the goal of application of rule of law and promotion and protection of human rights. In this context, the methodology is practical and complementary.

This methodology reflects the forward looking desire of investigating and prosecuting government authority and individuals responsible for unlawful killings. For this purpose, the project selected the law enforcing authority and the security forces as target groups.

Likewise, this project organized and motivated civil society and human rights community to create synergy against impunity.

3. The methodology of implementation has worked towards achieving the 8 expected results detailed in the logical framework. Campaign and advocacy (public hearing and mass demonstration, focus group discussion, interaction / round table discussion) prosecution of PIL cases, and formation of Task Force focused to attain expected results 1, 3, 4, 5, 7 and 8. Besides, draft legislation, recommendation, lobbying, study and preparing report on impunity, publication and dissemination focused on the achievement of the expected results 2 and 8. Hence, these methodologies have relevance with all the 8 expected results of the project.

The position of participation of minorities is satisfactory in the overall implementation of the project activities. In total, the participation of such groups is found almost 20 percent (Based on Participant Attendances).

3.1.9 Project relevance related to and effective for other key actors.

The project methodology is relevant and effective for other key actors. It is found that the key actors have been called to join hands prior to project implementation. Consultation was also held with some of them. Prior consultation was carried out with the key actors before executing each particular activity. It was also contextual for them. The activities were designed according to their perceived needs. The activities designed to intervene in the issue of impunity were relevant them. They were guided to fulfill their needs. Policy makers, law enforcing authority and national level organizations / institutions were determined as actors.

The methodology applied made the other key actors perceive new needs. The activities have duly responded to such perceived needs. The preamble of the Bill relating to prohibition of Impunity 2007 further clarifies this. The preamble states, "Whereas, it is expedient to end impunity by taking action against suspects involved in human rights and humanitarian crimes for effective enforcement, protection and promotion of human rights guaranteed by the Constitution and international human rights and humanitarian laws to which Nepal is a party."

Therefore, the project has stressed the need to respond to the new perceived need raised in the preamble. The project has responded the need to carry out prosecution, reparation, access of victims to justice by linking these issues with unlawful killings and impunity.

3.2 Mainstream priority

3.2.1 Gender perspective

The project has addressed gender perspective at the highest level. While going through the participants of the project activities, the most excluded groups, e.g. women, children, victims of conflict have been prioritized for participation. Rights of the women and children victimized by unlawful killings of their family members have been raised with utmost priority. The project is sincere on gender issue from the very beginning of its implementation. As mentioned in the project description, two positions were ensured for women as project staff. Due attention was paid for women participation in the conducted programmes to promote gender equality. Representation of women as panelists was made compulsory in each of the public programmes.

3.2.2 Children and women

Though the project stressed participation of women, it did not have specific focus to the rights of children. However, as children were most affected in the past conflict, their basic rights were vigorously raised in conducting campaign and advocacy. Rights of conflict affected children victimized by unlawful killings of their parents were raised. Lobbying with respective NGOs were made to provide due care, education, counseling for the children. A girl of 7 years of aged who lost her father in Kalikot killings was sent to Women Foundation, a local NGO, for basic education and hostel stay free of cost in Kathmandu. Learning of the project says that women and children cannot be set apart while addressing the issue of impunity. The project implementation team concluded that the women and children were most victimized by the past armed conflict when impunity remained as an entrenched culture. Likewise, any initiative conducted to intervene in the issue of impunity

ultimately strengthens integrated concept of rights. It was learnt through this project that civil, political, economic, social and cultural rights should come together to end impunity.

3.2.3 Conflict victims and vulnerable groups

This project mainly held advocacy in the two aspects of rights and problems. In the first part, the rights of the family members victimized during the past armed insurgency was focused. In the second part, the problems of degrading human rights situation and increasing impunity were incorporated. In this way, the project mainly focused problems and rights of the conflict victims. They are in a vulnerable situation in terms of the context of economic, social and livelihood rights.

Due care was maintained to bring the victims girls/women/widows to Kathmandu in course of case filing and mass demonstrations as well as their stay in capital and returning to their inhabitants. Their voices were carefully heard and prioritized in disseminations. Orientation to claim their rights was made in disclosing their grievances before media and in the public programmes. In distributing relief and providing skill trainings, they were placed in the first priority.

3.3 Effectiveness

3.3.1 Project preparation

This project was developed to end impunity, which a problem in itself associated to human rights violation, legal justice and rule of law. The project activities have been carefully designed by assessing impunity scenario in the country.

FOHRID as a contractor has adequately utilized the Logframe from project design to its implementation. Logframe has been consulted while monitoring progress during project implementation. It is found that FOHRID has documented and monitored the statements of the security forces regarding action to the guilty security personnel. Logframe has been used in the context of data collection of actions by the security forces, media coverage and its analyses.

Logframe has been always used for progress assessment, for instance, Logframe has been consulted to monitor achievement in quarterly project progress review and semester reporting. On the other hand, project has gone forward by assessing the assumptions and risks set forth in the Logframe.

There was no partner in the project but the project has taken target groups as partners. The target groups such as NHRC and Human Rights Organization have been directly involved in implementation of some of the major activities. To maintain transparency, FOHRID publicized the project activities and budget through press release prior to the project implementation. While inquired, the general members and staff of FOHRID told that they knew budget details.

3.3.2 Organizational experience

FOHRID had enough experience of working in the human rights field before implementing Ending unlawful killing and impunity project. FOHRID had already implemented HR Education for students and grassroots level people, Campaign for application and implementation of IHL Geneva Convention (Common Article-3), Research on application/implementation status of six core conventions, special focus on ICCPR and ICESCR, Preparation and submission of Shadow Report / Alternative Report to UN Treaty Bodies, Training on HR reporting and publication of HR Reporting Manual for Reporting six core conventions, Launching programmes for reformation and restructuring of mainstream political parties which are the lifeline of inclusive democracy and strengthening of democratic norms, Anti-corruption campaign, Regional Initiative for the rights to sustainable livelihood and the enabling of social and political participation and Publication and dissemination.

However, the record shows that it had not worked in the specific issue of impunity before. Its experience of working in other fields of human rights helped succeed implementation of this project. FOHRID succeeded to finalize Bill Relating to Prohibition of Impunity 2007 though it never had experience of draft legislation. The organization successfully implemented drafting the Bill and filing PIL cases on unlawful killings and impunity in the court.

Prior to implementation of this project FOHRID did not have any experience of working closely in the EU funded projects. But, FOHRID had implemented many other projects funded by other organizations. It had gained experiences in campaign, advocacy, lobbying, publication and dissemination through implementation of such projects.

There is significant presence of women in the FOHRID management group. Representation of other Ethnic minority Community is also ensured. Gender balance is maintained in the project staff. Member of minority Satar community is also included in the executive committee. Volunteer cell is comprised of women, ethnic community, backward community and minority.

3.3.3 Coherence of the project

Ending unlawful killings and impunity-project is a coherent project. It has determined effective activities according to the project objectives. In a first glance, the objectives were easily attainable. But the objectives are designed to have long term impact. For example, the project is successful to develop public interest

campaign. Similarly, the project has succeeded to draft Bill Relating to the Prohibition of Impunity 2007, file PIL cases, prepare long term action plane to combat against impunity and publication / dissemination. Nevertheless, these objectives do not end up so early and require follow up in the future. For example, the PIL cases are yet to be decided. Draft legislation has not been passed from the parliament. Though the outcome has been achieved in the Action and Implementation level, it will take more time in the outcome and result level.

Objective 1, 3 and 6 were to develop public interest campaign to draw attention of the target groups to end impunity in the security forces for improving rule of law; to create pressure against Maoists to respect HR; and To initiate advocacy for improved respect of HR respectively. Achievement of these objectives was satisfactory because all the stakeholders were found prepared to end impunity. Peace accord and Interim Constitution have addressed the problem of impunity. Nepal Army has accepted the severity of the problem of impunity. Office of the Attorney General has initiated programs on the role of public prosecutors to end impunity. Pressure is increased on the Maoists to respect human rights and end impunity but they have not fully abided by the public sentiment. Public interest campaign is heading towards positive way to make security forces and Maoist accountable to respect human rights. Reinstated House of Representatives on 25 July 2006 gave directive order to the government to accede to the Rome Statute. In this way, we can say that the project has made positive achievements. This is almost more than what we expected. In fact, success of the Jana Andolan II created a more congenial environment for attainment of the project objectives. FOHRID filed four PIL cases in the Supreme Court. Though the degree of impunity is not reduced, the target groups are more careful to monitor such cases. It has been felt that security forces and the Maoists are being more accountable than they were in the past. The ratio of killings has significantly decreased compared to the time of armed conflict in the past. The present changed political scenario has contributed a lot to bring this result. It has brought together the political parties, civil society, NBA, NGOs and other occupational organizations to combat against impunity. Public interest campaign is also in the positive way to make security forces and Maoist leaders accountable to respect human rights.

Objective 2 was to draft legislation recommendation for the end of impunity. Under this, a separate law was drafted to address impunity. Stakeholders were also convinced on the need of specific law against impunity. The Commission formed to draft Interim Constitution had recommended to formulate a new law against impunity. During lobbying carried out by this project, the MPs have expressed their commitment to pass this Bill from the Parliament. It is registered in the Ministry of Home to forward it as a public Bill. Sooner or later, the Bill will be passed from the parliament. There is no obstacle found so far in passing the Bill. This Bill will help domestication of the Rome Statute after Nepal accedes to it. The activities have been successful to draw the attention of all the stakeholders to develop public interest campaign. MPs have expressed their solidarity and given their words to take initiative to pass the proposed Bill Relating to the Prohibition of Impunity, 2064. Likewise, they have made their commitment to investigate incidents of unlawful killings where the security forces are involved. Positive result is seen at the project implementation level. All the stakeholders including political parties have stressed on the issue of ending impunity. These are significant achievement of the project.

Objectives 4 and 5 were to establish a Task Force at the national level to combat impunity, and to study situation of impunity in the country and to prepare a report in this regard respectively. As an achievement of these objectives, a Task Force with involvement of 113 representatives from the human rights community and civil society has been formed to work in the long term against impunity. The Task Force has been closely monitoring action taken against human rights violators. Nepal Army has taken action in 3 cases after formation of the Task Force. But the Army Headquarters is silent in many other cases of rights violation. It is learnt that the Army personnel found involved in the incidents of human rights violation are pleading for amnesty in the new political environment. It is expected that the peace process dominated by political interest may have negative impact in prosecution against the guilty security personnel. The Task Force has been formed with involvement of the target groups; attention of the target groups has been drawn towards public campaign against impunity; project has succeeded to launch advocacy and create pressure against impunity; draft legislation has been finalized and submitted to the concerned authority and the MPs; and PIL cases filed by FOHRID on behalf of the victims' families have made the action effective for campaign / advocacy and justice for the victims. Study has been accomplished by considering impunity from several angles such as conceptualization of impunity in the context of human rights violation, problem of impunity in Nepal and measures to resolve them. This is being utilized by the stakeholders as a resource material for advocacy against impunity. The target groups are able to know the national and international provisions regarding punishment to the people responsible for unlawful killings. The reports and the informative and descriptive study documents prepared under this project reveal the weakness of the government and the security forces in ensuring rule of law as well as the trend developed for impunity situation on the basis of legal and political background.

The project implementation has been made more coherent by conducting internal evaluation at certain interval by the project staff. Progress made to the achievement of the objectives and expected results have been assessed minutely and new strategies have been formulated on a quarterly basis to improve the outcomes. The outcomes of this project have helped to reveal the discrimination against victims of internal armed conflict. This group is deprived and marginalized by the government also. FOHRID has done much efforts to change

the current attitude towards impunity. Lack of accountability prevalent in the society has been raised at the highest level. Moreover, the target groups of the project have been empowered in the issue of impunity.

3.3.4 Adaptation to changes in environment and local circumstances

The project has adapted to the changes in environment and local circumstances. But, this has not affected design and implementation of the project. Most of the project activities were designed while Nepal was facing internal armed conflict. Relevance of such issues has ended after the success of Jana Andolan II. After that, the project carried out the new issue of unlawful killings and impunity. The issues included action against those found guilty of rights violation during Jana Andolan II, implementation of the recommendations of NHRC, inclusion of issues pertaining to impunity in the peace accord and Interim Constitution. These did not bring any change in the design and implementation of the project.

There were ample chances for accepting creative criticisms during project implementation. But the project was not modified due to such criticisms. However, some issues were modified according to the needs of involvement of the target groups. For example, the issue of interaction was brought into the Focus group discussion and vice versa. The issue of draft legislation was discussed during FGD and interaction. Reason behind this was the interest of target groups and the fact that budget was not allocated for draft legislation.

Project staff and FOHRID gained experiences in the selection of issues and target through these changes. Lessons were learned in the project design and determination of budget. The project has responded to the circumstances of peace process and transitional justice after the success of Jana Andolan II. The campaign against impunity was initiated in terms of unlawful killings. While working in the issue of impunity, the project raised the issue of gross violations of international human rights and serious violation of international humanitarian law that was prevalent in the country.

3.3.5 Right based approach

The project has conceptualized and followed right based approach. The project had identified that this action enable people to express and claim that impunity free society is the rights of people while selecting activities to match the needs of the target groups. In this way, the project had addressed at the highest level that the impunity free society is the right of the people. The project has conceptualized rights of victims such as right to justice right to fair trial, civil and political rights, right against unlawful killings and impunity. The project took reference of following International Human Rights Instruments while preparing project objectives and activities:

- 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 Co0venant on Civil and Political Rights, aiming at the abo9lition 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 against Torturer and Other Cruel, inhuman or Degrading Treatment or Punishment-1984
- 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 program implementation has referred to the rights and rights violations enshrined in the above instruments. Besides, the project has made applicable in the national level the rights carried by following instruments:

- Rome Statute of the International Criminal Court
- Brussels principle 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 of the target groups as mentioned in the above instruments were widely discussed and defined in the discussion programs held during project period. The standards set forth in the Rome Statute of the ICC, Updated Set of Principles for the protection and promotion of human rights through action to combat impunity and International Covenant on Civil and political Rights-1966 were discussed to establish intervention against impunity and to determine remedial measures. In the course of preparing Bill Relating to the Prohibition of the Impunity 2007, Right to Know the Truth, Right to Reparation, Right to Fair Hearing and Remedy, Right to Legal

Assistance and Right to Security were focused under Rights of the victims. These rights have been defined at the highest level. In this way, the project has put forth the demand to include the provisions of international conventions in the national laws. The project has stressed that the customary domestic laws need to be redefined and readjusted according to the standards of international human rights and humanitarian law. International customary laws have been addressed to extend the legal framework against impunity. Examples of Nuremberg trial and Tokyo trial have been utilized for this. Efforts are made to bring impunity into domestic legal 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. Out of these, 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 has been regarded as international customary law. Likewise, it is determined that the existing criminal laws in Nepal are unable to address the issue of impunity. The project has clearly stressed the need to prohibit impunity through amendment and reform in the domestic law and formulation of new specific law. The project has promoted legal pluralism, by adopting right against impunity. The project has conducted advocacy for new legislation to end impunity. It has also stressed the need of due process of law and access of victims to justice. It has indicated the need of responsibility and accountability to end culture of impunity.

3.4 Impact and assessment of the outcome level

3.4.1 Situation of target groups

Ending unlawful killings and impunity project has selected target groups in accordance with their rights and concerns. The policy makers, political parties, law enforcing agencies and campaigners had to understand the problem of impunity. The victims of conflict and their family members had to be enabled to express and claim their rights. The project has been capable to meet the needs of these two different sectors of target groups. But it has obvious limitations. The project location was Kathmandu valley and those who participated directly benefited from the project activities.

This was the first project implemented in the specific issue of impunity. Impact in this group was as assumed in the proposal. The project has convinced the target groups that impunity should be ended. Similarly, this project increased the intensity to work against impunity. Political parties, law enforcing authority and policy makers have accepted the gravity of impunity and they have expressed commitment to work for ending impunity. From this perspective, the project has helped to strengthen and empower voice of the target groups. After filing of PIL on the cases of unlawful killings in the supreme court, such case filing has increased. The project has facilitated the civil society and human rights community to initiate campaign against impunity. This has increased programs aimed to intervene the situation of impunity in the country.

3.4.2 Technical and management capacity of target group

This project has indeed enhanced technical and management capacity of the target groups. Though the project has not made direct contribution for legislation and administrative reform in the state, it has created public opinion in this regard. Especially, the drafting and recommendation of Bill relating to the prohibition of Impunity 2007 has helped legislative and administrative reform to end impunity in the country.

This project has enhanced technical capacity of the target groups to take legal action against those accused of their involvement in the incidents of unlawful killing. Capacity building is ensured on the legal process to bring the perpetrators in the justice system. The ground created by the project has enabled target groups with theoretical and pragmatic measures against impunity. Likewise, the knowledge and information produced through the project has helped to customize techniques used to combat impunity.

3.4.3 Multiplier effects

Multiplier effect and nationwide replication of the campaign was assumed in the activities launched to reduce impunity and to make the security forces accountable, replication of judicial precedent in the court practice for the future, replication through knowledge, information and process and evidence gathering and challenge to the law enforcing authority and government. As this is a campaign based project, its nationwide replication has been seen. Accountability has been increased in the security forces. As the final hearing of the PIL cases are still awaited, we cannot assume their future impact as reflection of judicial Precedent. Names of perpetrators involved in the serious violation of human rights from the state and non-state sides have been collected under the project. This compilation can work as an evidence to take action against them in the future. This has created ground to prosecute against them at any time in the future. In this way, the project has laid qualitative impact as assumed earlier. Other impacts will be visible some time after completion of the project.

3.4.4 Short- and long-term impact

The project has made significant short and long term impact. The project document has envisioned three layers of such impact. First, financial; second, institutional; and third, policy level. This has been assessed briefly in the following sections:

a. Financial aspect

This project has been implemented with the funding from EIDHR. The funding and the duration of the project has now exhausted. But, the issues raised by the project have not ended and the continuation of intervention is still felt. The situation of impunity still requires to be addressed. FOHRID has planned to carry out follow up of the issues raised by this project. For example, the PIL cases filed under this project need to be pursued till the final hearing. We have to make additional efforts to ensure passage of the Bill Relating to Prohibition of Impunity 2007 drafted and recommended under this project. We are trying to manage internal resources for these important activities, at the same preparing proposals to seek funding. The knowledge and information customized through this project have also helped us to sustain campaign against impunity. The Task Force is being mobilized. As FOHRID has initiated campaign against impunity in Nepal using knowledge and experience from the international practice, this needs to be sustained. We have planned to submit proposal to the EIDHR and other donors in this regard.

b. Institutional level

This project has established ownership at the local level. The clear examples are the Task Force and the Bill Relating to Prohibition of Impunity 2007. The efforts of the project activities have been focused to address the burning issues at the domestic level.

Relationship between FOHRID and target groups has become stronger during project period. This has increased the possibility of collaboration and joint efforts. For example, Task Force has been developed as a flexible network to work collectively against impunity. Total 113 individual and institutional members are involved in this network. This has existed as a mechanism of the non governmental sector to combat against impunity. This has ensured collaboration between FOHRID and other individuals / organizations.

The knowledge, information and equipment attained through this project helps systematic intervention in the issue of impunity. Though the present project with EIDHR has ended, this project has created ground to bid another proposal for follow up program in the EIDHR or other donor agency. This shows that FOHRID has gained significant institutional capacity building.

Though the structure of the project and capacity gained by FOHRID shows that the foreseen activity has ended, but it has left opportunity for continuous intervention of FOHRID in this issue. But the cooperation from the donor is necessary for this. This activity has established local ownership because the stakeholders have been sensitized on the gravity of impunity. This realization has ensured continuation of the activity, which is an achievement in itself.

c. Policy level

The project had aimed to lay institutional impact at the policy level. It had aimed improvement in the legislation, codes of conduct and methods but it was limited to public opinion formation. In this way, the project has succeeded in public opinion formation at the policy level as assumed earlier. For instance, the general public have taken united stand against the impunity. they have realized the need of a law capable to end impunity. The project has left impact at the policy level to address impunity. For example, we had recommended the Interim Constitution Drafting Committee to incorporate provision to promulgate a law with retroactive effect against impunity. The Committee had submitted its draft incorporating this provision as a fundamental right in Part 3. But the then interim parliament removed this provision while promulgating it. However, "to ensure good governance ending impunity" was included as a policy in Part 4, Directive Principles of State, and Policies, Article 33. By this provision, we can be hopeful that the government will formulate Act or rules to end impunity. The project has contributed to incorporate issue of impunity in the documents from the comprehensive peace accord to declarations of political parties. But we do not claim that all these achievements were made due to the campaign of this project. It was made possible by the political transformation after the success of Jana Andolan II. The habeas corpus case of Rabindra Prasad Dhakal Vs. Nepal government has contributed in the judicial practice. The human rights community and civil society have been raising demand to end impunity. The media is reporting the issue of impunity with priority.

The 4 PIL cases filed under this project are yet to be decided by the court. The final verdict on these cases will also certainly lay significant impact in the policy level and judicial practice.

The project has not brought any changes in policy, program and funding of others. This was because the project had focused complex issue of impunity. Impunity is in fact associated ruling system and politics. Raising issue of impunity means to question the accountability of the head of the state and senior authority of the state. They usually benefit from the state of impunity. The activities implemented to intervene in the issues of impunity target the individuals and institutions ruling the country, law enforcing authority and policy makers. Hence, we cannot presume that others will make changes in policy, program or funding through such activities. However, the project has been successful to give a feeling of change.

4.4.5. Other Impact and Assessment of the outcome level

Though there were not any unexpected impact during implementation of the project, there were some side effects in the intervention. For example, PIL case filing would be more difficult if Jana Andolan II had failed. Conducting public hearing and mass demonstration would be impossible under direct rule of the King. Hence, the side effects did not bring any unintended negative impact.

There were no significant positive or negative impact in the project implementation. However, the sensitization in the stakeholders in the issue of impunity is a positive asset. But, apart from the project activities, the peace process in the country also contributed in this. Comprehensive peace accord, Interim Constitution and participation of the CPN-Maoist in the parliament and the government brought a positive environment for this. The state organs, political parties, law enforcing authority, non governmental sector and civil society have also come together against impunity. Political transformation is a major factor for this.

This project implemented as a campaign against unlawful killings and impunity has not brought any other significant measurable changes in practice. It has, however, brought changes in the perspective of security forces and law enforcing authority on impunity. It has brought some changes in the practice of civil society through collaboration and collective intervention in the issue. This can be felt in the drafting and recommendation process of Bill Relating to Prohibition of Impunity, 2007, formation of Task Force and follow up programs.

The project has not laid measurable impact at the political level to end armed conflict in the country, however, it created synergy to end conflict and to lead the country towards peace and democracy. The project carried out advocacy at the highest level to against incidents of serious violation of human rights and humanitarian law. The subject matters of advocacy were peace, justice, democracy and rule of law. Likewise, promotion of accountability and efforts made to end impunity certainly contributed to discourage violent conflict.

3.5 Sustainability

3.5.1 Strengthening Capacity

The direct beneficiaries of this project, civil society, human rights community, journalists, conflict victims have realized that they have rights against impunity and it should be claimed. In this way, the capacity of beneficiaries to claim justice and protection of human rights has been developed. The project has helped to raised this issue in respect of the victims of serious violation of human rights. It has strengthened the capacity of the beneficiaries in their understanding against impunity and measures to minimize them. The knowledge and experience of the project implementation has helped capacity building of project implementing institution, FOHRID. This has enhanced capacity to work together against impunity for the civil society, human rights community and media. Most of the activities of this project were implemented in a collective way. This has paved a sure way for FOHRID to implement its future activities in a collective way. The activities of public hearing and mass demonstration, draft legislation, action plan and interaction were accomplished collectively. This has, of course, enhanced the habit and practice to work collectively in the issue of common interest.

FOHRID was successful to draft and recommend Bill Relating to Prohibition of Impunity, 2007. This was indeed an innovative practice. The project has succeeded to draft the Bill challenging the opinions that such a law does not exist in the world. This activity has helped capacity building of FOHRID to formulate new legislation, study laps and gaps in the existing law and prepare agenda for law reform in the future. This has also enhanced knowledge and capacity of FOHRID for domestication of Rome Statute.

3.5.2 Sharing of practice and methodology

It is found that the good practices of the project activities were shared, as far as possible, with the stakeholders during implementation period. FOHRID has prepared report of every activity and it is disseminated promptly among stakeholders. Publication of FOHRID Human Rights Monitor, Study Report, Draft legislation, Final programme Report has helped this motive. The experiences of PIL case filing has been shared with the OHCHR Nepal and other national and international Human Rights Organizations.

FOHRID has got an opportunity to share its experiences and learnings on project implementation with the visiting EU delegation in Kathmandu. It had especially shared with the delegation experiences on methods and understanding on the implementation of the project activities based on the reports. The obstacles and difficulties faced in the draft legislation recommendation were especially discussed during the meeting. FOHRID had requested the delegation to raise this issue in their meetings with the government.

3.5.3 Creates synergy

Synergy was created during implementation of this project through collaboration with other initiatives. It had worked together with similar initiatives of other organizations also. Such collaboration was conducted with the organizations such as NHRC, Human Rights Home, AI Nepal and Joint Forum for Human Rights. FOHRID conducted parallel session entitled "Interim Constitution and ending Impunity" in a conference organized by civil society. It had actively participated many initiatives of civil society after the success of Jana Andolan II and made efforts to focus issue of impunity in such programs.

3.5.4 Pre-strategy

The intervention strategies of this project were determined at the very beginning. Necessity to revise the earlier strategy was felt after political transformation in the country. However, such alterations were limited not to affect overall outcomes. There was need of regular intervention in the issue of impunity when the country was going through the peace process. This has invited necessity to redefine the strategies as well as the issues raised. For instance, the issue of impunity was then raised by linking it with transitional justice. This was imperative to raise when the nation entered into peace process after success of Jana Andolan and signature

of peace accord. Adequate discussion was made with the target groups and beneficiaries while implementing project activities as determined. For example, consultation with the victims was made for PIL case filing and with major stakeholders during draft legislation.

There was no implementing agency other than FOHRID in this project. However, the representatives of target groups were consulted and requested to join hand prior to implementing each of the activities. The activities were forwarded with consensus after preparation. Formation of Task Force, conduction of public hearing and mass demonstration, draft legislation recommendation are superb examples of this practice.

3.5.5 Scope of extension

It is felt that the benefits of this project need to be continuously followed up in the future. Adequate resource is necessary for this. FOHRID has selected 2 strategies for continuation. Firstly, to submit proposals to the donors including EU for continuation; and secondly, to continue efforts with the internal resources and experiences of FOHRID.

It is seen that the project has systematically intervened in the issue of impunity. Potential extension in this issue is wide. Currently, Nepal is going through peace process. Issue of impunity is required to be addressed with due importance in this phase. Management of transitional phase cannot be effective without prosecution and proper heed to the issue of impunity. The issue should be addressed alongwith guarantee of the victims' right to reparation, revelation of truth and reform in the judiciary and administrative agencies. From this perspective, the issues raised and the activities initiated by this project are required to be continued. For example, the cases filed under this project are yet to be decided. It takes long time to follow up the cases and, if decided in favour, to implement them. Similarly, the Bill Relating to the Prohibition of the Impunity 2007, prepared under this project has been registered in the Ministry of Home Affairs but it is not passed from the parliament. continuous advocacy and lobbying is necessary to get it passed from the parliament and for its implementation. It is found that FOHRID has been making efforts to materialize these achievements.

The project activities have made some specific strategies for financial sustainability. Firstly, new project concepts are being developed in the ground of the achievements of this project to submit it to the donor agencies. Secondly, it is planned to sale the project produced documents in nominal price to arrange fund for follow up. Thirdly, the voluntary contribution of the Task Force will also make some financial contribution. The instruments received from the project have supported FOHRID for financial sustainability.

The Bill Relating to Prohibition of Impunity, 2007 has determined effective strategy. This has opened way for implementation, protection and promotion of the provisions in the Interim Constitution and international instruments to which Nepal is a party and for prosecution against the perpetrators who have been found guilty in the unlawful killings and impunity. This ground will certainly help in the financial aspect also to forward campaign against impunity.

3.5.6. Further strategy

This project has forwarded the campaign against impunity in a sustainable way. For this purpose, the project has determined further strategy. Such strategies have been prepared with the active participation of the target groups under long term action plan. Especially, the project has determined following issues as further strategy:

- Development of political system and will power to end impunity;
- Repeal and reform of the domestic laws that favour impunity;
- Formation of new law and legal arrangement on impunity;
- Management and empowerment of legal administration;
- Initiative against devaluation of rule of law and judiciary;
- Reform of legislature and executive organs;
- Revelation of truth and guarantee of justice for victims;
- Prosecution against human rights violators;
- Ending torture and inhuman treatments with impunity;
- Making accountable the non-state actors responsible for serious human rights violations;
- Accession and ratification to international instruments aimed to end impunity;
- Extension of civic campaign to end impunity;
- Ending impunity and implementation of Rayamaji and Mallik Commssion reports;
- Extending collaboration against impunity.

Extension of areas of activities on the above issues shall ensure continuation of the project. The extension of intervention and arrangement of additional resources shall help to continue the issues raised by the project. This continuation shall guarantee sustainability of this project output in the long term.

3.6 Visibility, communication and dissemination

3.6.1 Understanding and application of EU visibility rule

It is found that FOHRID has very well understood the visibility rule of EU and applied it during project implementation. To ensure the visibility of the EU contribution in the project, FOHRID has displayed the logo of

European Union and "A project funded through the European Initiative for Democracy and Human Rights" suitably in the letterheads and publications of the project. A separate project letterhead was prepared in which the logo of EU and FOHRID has been displayed. This letterhead is used in the correspondence related to the project implementation. "Financial support by European Union" has been written in the banners 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 correspondence was maintained with the EU as required during project implementation. Exchange of views was made for implementation of project, reporting, invitation to participate activities and in the issues where some clarification was required. The soft copies of project reports were dispatched to the EU regularly. The project implementation team has expressed that the attitude of EU during this process was very much helpful.

3.6.3 Communication with target groups

The stakeholders of this project were adequately contacted during project implementation. Invitations were dispatched through e-mail, fax and by hand. Correspondences were made to Nepal Army, Nepal Police and Armed Police Force to obtain information regarding action against their officials involved in human rights violation. This Bill produced under this project was printed in Nepali and English language, disseminated to the concerned government authorities, parliament members and political parties. The reports and experiences of the project activities were disseminated among stakeholders and target groups through e-mail.

3.6.4 Dissemination

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

First, outcomes of the program activities were widely disseminated via electronic medium to sensitize target groups against impunity.

Second, hard copy publications based on Activity 5 and overall program were brought out. These were published within the date as specified in the project calendar. Programs organized by FOHRID and other human rights organizations were used for dissemination of the publications. FOHRID Information Desk has been distributing publications to the government agencies, security forces, law enforcing agencies, individuals and national and international organizations. The project produced materials are disseminated, focusing especially the identified target groups. (Please see Lesson Learned section below for more information).

3.7 Staff performance

3.7.1 Coordination inside and outside

It is found that the team involved in implementation of this project have effectively coordinated inside and outside. Discussion and planning meetings were held between FOHRID executive body and project team prior to implementation of each of the activities. There was a good coordination at FOHRID to accomplish the task according to division of responsibilities. Coordination was maintained with the target groups through citizen's law drafting committee for law drafting process. Discussions were held with the major stakeholders for making the activities result oriented. Help was sought with the local human rights organizations and lawyers for filing PIL cases. Preliminary meetings were held with the human rights community for public hearings and mass demonstrations. Adequate consultations were made with the target groups for formation of Task Force and formulating long term action plan.

3.7.2 Staff performance at various levels

The members of project implementation team had made careful coordination internally and externally for implementation of activities. Each activity was implemented with good coordination. The project team played a really good role for project implementation through effective coordination. The team has well contributed to the society by preparing useful resource materials. The Project Officers have sincerely prepared monthly review and reporting to submit to the Project Coordinator. Likewise, performance data has been prepared against each logical framework indicator. While viewing from this perspective, staff performance was satisfactory in the project implementation.

3.8 Budget

The project cost seems satisfactory. However, the project seems to be accomplished in a low profile in respect of its cost. It was weakness during project preparing that there was no budget allocation in certain activities. Budget is not allocated for draft legislation, one of the most important components. Similarly, budget is not

allocated for action plan meetings. However, these activities were accomplished successfully by arranging budget from the concerned budget heads. (Please see Financial Report for detail budget and expenditure).

The fluctuation in the EURO exchange rate has also affected budget of this project. FOHRID could not utilize exchange gain received from the fluctuation in the exchange rate. The reason was EURO 36,020 received by FOHRID as the first installment was deposited in its account in local currency. The gain in the exchange rate ultimately affected the total amount. Similarly, as a Saving Accounts was maintained, FOHRID gained some amount as interest which will be incorporated in the final installment. (Please see Financial Report for detail budget and expenditure).

4. Major Findings

4.1 Attainment of foreseen goals of the project

Objectives	Achievement and positive / negative impact of result
1 To develop public interest campaign to draw attention of the target groups to end impunity in the security forces for improving rule of law. 2 To create pressure against Maoists to respect HR. 3 To initiate advocacy for improved respect of HR.	Project attained these objectives as foreseen. All the stakeholders are prepared to end impunity. Peace accord and Interim Constitution have addressed the problem of impunity. Nepal Army has accepted the severity of impunity problem. Office of the Attorney General has initiated programs on the role of public prosecutors to end impunity taking our Nepali publication "International Instruments Developed Against Impunity" as a major resource material. Pressure is increased on the CPN-Maoists to respect human rights and end impunity but they have not fully abided by the public sentiment. In this way, we can say that the project has made positive achievements. This is more than what we expected. In fact, success of the Jana Andolan II created a more congenial environment for attainment of the project objectives. We filed four cases as PIL in the court.
4 To draft legislation recommendation for the end of impunity.	A separate law was drafted to address impunity. Stakeholders were also convinced on the need of specific law against impunity. The Commission formed to draft Interim Constitution recommended to formulate a new law against impunity. The MPs have expressed their commitment to pass this Bill from the Parliament. It is registered in the Ministry of Home to forward it as a public Bill. Sooner or later, the Bill will be passed from the parliament. There is no obstacle found so far in passing the Bill. This Bill will help domestication of the Rome Statute after Nepal accedes to it.
5 To establish a Task Force at the national level to combat impunity.	A Task Force with the involvement of 113 representatives from the human rights community and civil society has been formed to work in the long term against impunity. The Task Force has been closely monitoring action taken against human rights violators. Nepal Army has taken action in 3 cases after formation of the Task Force. But the Army Headquarters is silent in many other cases of violation. It is reported that the Army personnel found involved in the incidents of human rights violation are pleading for amnesty in the new political environment. It is expected that the peace process may have negative impact in prosecution against the guilty security personnel.
6 To study situation of impunity in the country and to prepare a report in this regard.	This study has been accomplished by considering impunity from several angles such as conceptualization of impunity in the context of human rights violation, problem of impunity in Nepal and measures to resolve them. This is being utilized by the stakeholders as a resource material for advocacy against impunity.

4.2 Strength of project implementation

This project is contextual in the current Nepal. It has accepted the objectives and Strategies of EIDHR. The project has intervened in the model of a campaign by linking carefully the incidents of unlawful killing with impunity. The project has brought together and raised the issues of protection and promotion of human rights, promotion of rule of law and democratic system at the highest level. The project has brought together the target groups for resolving problems. It is a strong point that FOHRID has brought human rights organizations and other individuals / institutions together to establish their equal ownership in the project.

Selection of the issues and target groups is appropriate. There is uniformity in the implementation level according to the issues of intervention. Implementation methods and its various aspects are effective. It has put women, children and conflict victims in mainstream priority. The effectiveness of project implementation is satisfactory. It has promoted right based concept. Institutional experience of implementing partner FOHRID is excellent. The project has laid significant impact in the situation of target groups. There are adequate possibilities of sustainability of the project.

There were some risks in the beginning of the project. There was direct rule of King in the early phase of project implementation. The project implementation would have been difficult in such a situation as it was related to make accountable the rulers and authorities of security forces accused of guilty in unlawful killings and impunity. The political changes brought out by the Jana Andolan II made the environment more favorable. Implementation of this project would have been very difficult if the King's rule had continued. Therefore, it must be acknowledged that the success of Jana Andolan II and subsequent peace process were important factors for favorable results of this project.

4.3 Weakness of project implementation

Weakness of this project was inadequate budget in comparison to the activities. Other problems also could make the project weak. But the project team carefully mitigated such problems. Due to the undergoing peace process, whole country was engaged in the political issues such as election of constituent assembly. So, the involvement of senior leaders could not be arranged as expected in the project implementation. Efforts to involve representatives of CPN-Maoist could not yield satisfactory results. The misunderstanding on truth and reconciliation somehow tried to mislead and contribute to shadow the campaign against impunity. In the process of draft legislation, FOHRID faced some problems in the beginning. Earlier, FOHRID felt difficulty to receive expected cooperation from human rights community. The provision of retrospective effect in the Bill was a matter of debate for a long time. It is possible that the parliament may ignore passage of the Bill. If it is not passed, it may lay negative impact in the project outcome. Representatives from some NGOs and INGOs discouraged us by telling that such Impunity Bill does not exist anywhere in the world.

FOHRID faced various difficulties implementing the activity of PIL case filing. Legal hassles were encountered in the first case filing. FOHRID had to fight against the unaccountability of the Court that any case filed against the then Royal Nepal Army was immediately endorsed. Same problems were faced in terms of case filing against CPN-Maoists. As the party was an insurgent group at that time, we found no way to submit summon letter to them practically. Moreover, in connection to the killings by CPN-Maoists, FOHRID could not file PIL against them because writ petitioned could only be filed against public authority. So, though mentioned in the proposal, case of Madi killing could not be registered against Maoists due to the technical problem.

Some difficulty was felt to make understand impunity to the target groups and to interlink it with the human rights movement as was proved now a major case of human rights violations in Nepal. Problems were also created by the lack of understanding in the major stakeholders of this project and lack of sensitivity in the case of impunity. Lack of political will and the nominal participation of political parties made it difficult to determine actions to address political impunity. Adequate feedback was also lacking in this regard. Impunity in judiciary and the concept of independent judiciary posed a challenge to mark a balance and effective line for intervention.

5. Lessons learned

It is found that FOHRID has learned important lessons in filing PIL cases during project implementation. It was found and practiced that extra ordinary jurisdiction of the Supreme Court can be adopted in pursuit of seeking justice on the case of unlawful killings by security forces. In most of the cases, victims cannot get justice if human rights organizations or institutions do not take initiatives to file PIL cases in their favour. Justice delayed is justice denied. It was realized in practice that court process is lengthy and justice is delayed. So, it is necessary to work towards speedy justice and reforms of court procedures.

New learnings were gained in the Task Force formation also. Even the flexible structural framework of the voluntary participation of like-minded individuals and organizations could also be a strong mechanism if the society needy issue was properly raised. Campaign and lobbying would be effective if integrated voices and concerted efforts were made with long term vision, policy, programmes and actions.

Dissemination of project produced materials, information sharing showed that there is lack of impunity related materials and adequate source of information in Nepal. It has reminded the team that production and dissemination of materials against impunity is necessary. These resource materials are pre-requisite to carry out campaign against impunity. Campaign and advocacy through the publications were found much more effective at policy level intervention. It is felt that effective follow up of the issues raised by this project is necessary to combat against impunity. The issues should address specific problems in a prioritized form and much is yet to be done for domestication of international instruments ratified by Nepal.

6. Recommendation and conclusions

6.1 The campaign and advocacy on the issue of impunity is a new movement in Nepal for improved human rights and democracy strengthening. Impunity is a major obstacle of justice and justice is the foundation of peace. Hence, eradication of impunity is inevitable for social transformation and sustainable development. Long term advocacy and nationwide campaign with the broader participation people until the overall goal i.e. ending impunity or strengthening the rule of law and promotion and protection of human rights is achieved, are the concluded observation of this activity execution. Continuation of this program with extending the area of implementing and follow up the conducted activities are necessary to achieve this goal. Identifying the chronic issues with impunity and issue-wise extensive intervention will effectuate the campaign in coming days.

Campaign against impunity becomes more effective, if we create public opinion in favour of prosecution. Therefore, advocacy to end impunity and prosecution against perpetrators should be taken together which will contribute to ensure meaningful transitional justice. Campaign against impunity should be forwarded with long term strategy. A network of human rights defenders and organizations should be established to fight against risks being faced by them and to spread campaign against impunity throughout the country. Campaign against impunity should be taken to the local level. Grass root people should be sensitized widely in this issue. Campaign against impunity should focus political parties, policy makers, bureaucracy, human rights community, civil society, business people and general public. Impunity has become a major obstacle for democracy strengthening, conflict management and human rights protection. So, impunity is to be effectively intervened on behalf of civil society.

6.2 The 'Bill Relating to Prohibition of Impunity, 2064' is a specific law formulated with background of international laws developed to initiate prosecutions against the crimes of international concerns to address the serious violations of human rights and humanitarian laws in Nepal. It has aimed to put an end the existing impunity by establishing a new domestic mechanism in the country and materializing the international norms into national practice in the context of Nepal. In the formulating process, the effort to involve the larger participation of stakeholders has been made. In similar way, lobbying to pass the Bill from the parliament is needed with increased and effective participation of all stakeholders for the achievement of determined goal. Continuous advocacy and lobbying is necessary to pass the Bill. The Bill can be utilized as an advocacy material as it helps for domestication of Rome Statute once Nepal accedes to it. FOHRID should continue its advocacy and lobbying to pass the "**Bill Relating to Prohibition of Impunity, 2064**," if needed, under a new project. Such activity will compel the government to accede to the Rome Statute and its domestication even if the government does not pass the Bill. Effective law should be enacted for the abolishment of impunity and the existing security related laws should be reviewed and amended. and Police Act 2012, State Case Act 1992, Torture Compensation Act 2053, Public Offences and Punishment Act 2027, Public Security Act 2046 need to be amended according to human rights standards. The existing impunity in Nepal is to be considered in the context of violations of international humanitarian law and human rights laws in the initial phase. Impunity can be controlled by implementing effectively the international human rights instruments ratified by Nepal at the domestic level. Ratification of Rome Statute 1998 is the first and the most important condition to eradicate impunity prevalent in the country. So, FOHRID should bring the programs to pressurize the government to sign and ratify the Rome Statute

6.3 Case filing of serious violations of human rights through writ petition utilizing extra-ordinary jurisdiction of the Court is effective to a large extent. There are a number of cases left unearthed during this internal armed conflict. All these incidents are to be sought and brought to court process. This will contribute to prevent further violations and pressurize the concerned authority on the issue of accountability. In addition, strong defense with the solid evidence and follow up of the filed cases is necessary to succeed this activity. Hence, continuous follow up of the cases is required. It can be shared as a good practice if the cases succeed to ensure justice to the victims and punishment to the perpetrators. Ending impunity is impossible until we bring the security forces and insurgents within the framework of justice system as impunity situation has reached its climax during armed conflict. Society is to be sensitized on impunity. For this, resource materials should be prepared in simple language targeting the general public and disseminated widely. Perpetrators of human rights violations in Nepal can be prosecuted by framing a law having retrospective effect because the ICCPR, to which Nepal is a state party, has this provision. The provision to initiate prosecution with the law having retroactive effect to those responsible for crimes against humanity committed during the Peoples' Movement II has been exempted when it came into effect. So, campaign should be initiated to restore the provision to put an end to impunity in Nepal. Massive violation of human rights and large scale of impunity occur during the international and non-international armed conflict. So, the provisions to bring into justice system even the non-state actors are to be incorporated in the law

6.4 The practice of task force formation and mobilization with a view to ending impunity, a sole agenda in human rights movement, is new in Nepal. All perpetrators involved in serious violations of human rights and humanitarian laws need to be brought into justice system. This task force, during this transitional period, should play crucial role for improved human rights of Nepalese people. Establishing merely a mechanism deserves no value; rather its importance is reflected in its flourishing and sustainability. The success of this movement depends upon the regular follow up of the initiated activities, extension of its network and timely intervention of determined both long term and short term action. The concept of Task Force formation to combat impunity at national level is an effective measure to combat against impunity. So, this needs to be sustained and mobilized for the long run. The Task Force should move with proper strategy and plan and focus to follow up its activities in the human rights movement. Priority for the immediate, short term and long term action should be carefully determined for further intervention.

6.5 The study report has come out as a resource material with thorough analysis of national and international trends of impunity. The study has targeted to document the particulars of the incidents of serious human rights violations with impunity in Nepal, thinking that one day in future, this will be investigated as per the norms that justice will never be denied. More importantly, it has been considered that this outcome will be used as an advocacy toolkit to the campaigners of Nepal.

6.6 Publications/dissemination is a reliable and effective means for knowledge and its 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.

6.7 After two year long experiences of impunity specific campaign and the feedbacks of stakeholders, this long term action plan has been formulated to continue the campaign. This activity has succeeded to provide a clear guideline to further the campaign to the target groups. It has been recommended that area identification and priority determination is necessary to intervene the actions.

6.8 The feedbacks received from the target groups during project implementation should be accepted positively by the Contracting Authority EU and Implementing Organization FOHRID. These are important assets to further develop strategies and implement projects on similar issues in the future.

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36. Brief report of discussion program organized for Task Force Formation, 24 August 2006
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Annex: 1

TOR for External Evaluation of "Ending unlawful killings and impunity project"

1. Background of call for proposals

The European Union is founded on the principles of liberty, democracy, respect for human rights and the rule of law. Recognising the vital contribution made by non-governmental organisations (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.

The strategy for the EIDHR is based on its ability to promote EU human rights and democratisation 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.

The Micro-Projects Programme is administered by the European Commission Delegation to Nepal. The 2005 Call for Proposals is the third of this kind, after the first and second Call was launched in 2003 and 2004 respectively. Five and four projects were funded following the first and second call respectively.

1.2 OBJECTIVES OF THE EIDHR MICRO-PROJECTS PROGRAMME AND PRIORITY ISSUES FOR 2005

1.2.1 Objective of the EIDHR Micro-Projects programme

The general objective of the programme is to respond rapidly to requests from NGOs for small-scale financial support for initiatives designed to **promote and protect human rights and democratisation**, as well as the efforts aimed at **conflict prevention and resolution**.

1.2.2 Priority issues for the present Call for Proposals

In 2005, the European Commission welcomes projects proposals relating to the following priority areas, all of which are equally ranked:

Priority A: Freedom of Expression and Independent Media

The focus within this priority area will be on:

- Quality and coverage of Human Rights issues including issues such as: (i) peace building process; (ii) gender equality and protection of child rights; (iii) transparency of the governance system and fighting against corruption;
- Media broadcasting to remote areas;

Priority B: Strengthening the Justice System and the Rule of Law

The focus within this priority area will be on:

- Advocacy against torture;
- Human Rights training for public officials;
- Advocacy for improved application of human rights;
- The justice system and the judiciary reform;
- Improving Rule of Law and legal protection of Human Rights;
- Legal access to detainees under conflict;
- Improving the Human Rights monitoring mechanism as per the basic principles of international law

Priority C: *Fighting Against Discrimination of Minorities and Caste based Discrimination*

The focus within this priority area will be on:

- Helping minorities to obtain better access to justice, education, livelihood opportunities, health;
- Increasing the participation of minorities in public life and public administration sectors and promoting dialogue between minorities/caste based groups and policy makers in local regional and national authorities.

Preference will be given to applicants that either directly represent such minorities or advocate for their rights and/or deliver services to such minorities.

Priority D: *Conflict Mediation and Dialogue*

The focus within this priority area will be on:

- Contribution to the negotiated political solution of the conflict
- Support for the implementation of programs for peace and confidence building and programs aiming to fostering a culture of peace

Proposals must be directed towards achieving one or more of the above-mentioned objectives.

This call for proposals is limited to the Mid-Western region (All the 15 districts-Dang, Pyuthan, Rolpa, Salyan, Rukum, Banke, Bardiya, Surkhet, Jajarkot, Dailekh, Dolpa, Jumla, Kalikot, Mugu, Humla); ***Sagarmatha zone*** (Siraha, Saptari, Udayapur, Khotang, Okhaldhunga, Solukhumbu) ***in the Eastern region; Janakpur Zone*** (Dhanusa, Mahottari, Sarlahi, Sindhuli, Ramechhap, Dolakha) ***and Kathmandu Valley*** (Kathmandu, Lalitpur, Bhaktapur) ***in the Central region***. *The submission of project proposals from NGOs with activities in the districts, in particular the hill districts and remote areas of the region are encouraged.*

Sectors or themes

*The proposals must contribute directly to **one or more of the thematic priorities** listed above in section 1.2.2.*

*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 process*

2. Brief introduction of project

Human Rights and Democratic Forum (FOHRID) received opportunity to work with the European Commission by submitting a proposal in the Priority issues 'B' of the call for proposals under European Initiative for Democracy and Human Rights, Micro-projects in Nepal, Publication reference: EuropeAid/EIDHR2005/C/G/NP. Budget line of the project was 19.04.03 and Contract ref. No. was DDH/2005/112-736. Brief description of the "Ending unlawful killings and impunity project" implemented by FOHRID is given in Annex 1. Total budget of the project was 50,028.00

EURO, out of which EU provided 90% grant and FOHRID arranged remaining 10%. The project duration was from 1st January 2006 to end December 2007.

3. Rationale of evaluation

This project shall be evaluated with the norms and practice of external evaluation. The evaluation shall measure the strong and weak points of the project in light of the above EU call for proposals. Attainment of the objectives determined by the donor shall be monitored. Though not mentioned in the project proposal, FOHRID shall arrange external evaluation of the project to ensure impartiality and professionalism. Therefore, this activity will be carried out with the view of sharing evaluation of the attainment of objectives, outcomes, expected results etc. determined by the project.

4. Objectives of the evaluation and the key questions

Objectives of evaluation

Evaluation shall be carried out with the following objectives:

1. To determine relevance of the project in light of the EIDHR call for proposals.
2. To find out how far has the project been successful to adopt mainstream priority.
3. To find out efficiency of the project.
4. To analyze the outcomes of the project in determining areas in light of the project objectives.
5. To assess sustainability of the project and the basis determined by the project to this effect.
6. To find out the visibility, communication and dissemination strategy adopted by the project.
7. To assess the performance, financial management and competency of the project staff to run the project.
8. To assess the extent to which the project has fulfilled its goal and planned the level of impact.
9. To analyze the appropriateness of the project's strategies, implementation modalities and management structure in light of operating environment, project goals and sustainability of project processes and activities.
10. To assess the policy environment for future design and implementation of integrated conservation and development project.
11. To analyze the project management structure including support from European Commission, the funding agency.
12. To evaluate the relevance of assumptions and risks determined during the project design.
13. To document the lessons learned in relation to future project design and implementation.
14. To draw some conclusion and recommend some prescriptions.

Key questions for evaluation

Answers to following key questions shall be sought to evaluate attainment of the objectives:

4.2.1 Relevancy

- A. Is the project targeting the most relevant groups?
- B. Does the project address the most relevant issues?
- C. Modalities of Project
- D. Scale of project
- E. Location of projects
- F. Is the project methodology relevant to and effective for target groups?
- G. Is the project methodology relevant to and effective for other key actors?

3.2 Mainstream priority

3.3 Effectiveness

3.4 Impact and assessment of the outcome level

3.5 Sustainability

3.6 Visibility, communication and dissemination

3.7 Staff performance

3.8 Budget

4. Major Findings

5. Lessons learned

6. Recommendation and Conclusions

5. Methodology

The final evaluation should strictly follow the principles of a participatory approach. The evaluation process will collect information (both qualitative and quantitative) from a variety of sources including (a) reports of NHRC and other HR organizations (b) HR monitoring report (c) project progress report (d) media coverage (e) staff evaluation. Other primary information essential for the evaluation process can be generated and collected from the following activities:

- ◆ Project staff meeting
- ◆ Desk information collection
- ◆ **Interview**
- ◆ **Questionnaire**

6 Activity and time line

Duration	Activities
One day	Meeting with FOHRID and collection of relevant literature and project documents
Three days	- Review of literature and project documents Preparation of evaluation technique, method Sharing of the tools with FOHRID officials
Three days	- Interview with the project staff and desk review meeting
Four days	- Analysis of various sources (a) Reports of NHRC and other HR organizations (b) HR monitoring report (c) Project progress report (d) Media coverage (e) Quarterly Project Review
Four days	- Preparation of Data interpretation and Report writing
One day	- Debriefing presentation, Submission of draft report - Assimilation of inputs and comments
Three days	- Finalizing the report and submission of final report

5. Output

The External Evaluator shall submit written Project Evaluation Report in the following two segments:

1. Evaluation Report to FOHRID
2. Evaluation Report to European Commission

The reports will be submitted both in soft copy and hard copy.

6. Reporting format and size of report (30 pages without Annexure)

The elements to be incorporated in the reporting format include - Introduction, Evaluation methodology, Assessment and evaluation on key factors/aspects/dimensions, Project Relevancy, Mainstream priority, Effectiveness, Impact and assessment of the outcome level, Sustainability, Visibility, communication and dissemination, Staff performance, Budget, Major Findings, Lessons learned, Recommendation, References, and Annex.

Annex-2

Questionnaire developed for internal project evaluation for project staff

Project name: Ending unlawful killing and impunity

Project duration: January 2006 to December 2007

Date: 13 January 2008

This questionnaire is developed for internal evaluation of the above project according to 1.7 Methodology, sub section (d) of the project description. Please answer briefly those questions, which are relevant to your responsibility in the project implementation. Please submit your written answer to the Project Evaluator within 20 January 2008.

Relevancy

Is the project targeting the most relevant groups?

1. Is the action relevant to the objectives of the programme?
2. Is the action relevant to the priorities of the programme?
3. Are the most vulnerable of communities reached by project?
4. Are the poorest and most vulnerable within communities reached by the project?
5. Is the project relevant to the most pressing needs of the target groups and target country?
6. Are the prioritised needs of the vulnerable people addressed adequately?
7. Are the target groups and the activities selected appropriately?
8. How was the relevance between the target groups and the activities?

Does the project address the most relevant issues?

1. Non discrimination and effective equality of treatment;
2. Minority identity, including their ethnic, religious, linguistic or cultural identity;
3. The participation of minorities in cultural, religious, social, economic and public life;
4. The right to exercise their rights individually and in community with others;
5. National policies and programmes taking account of the interests of minorities;
6. Promoting tolerance and intercommunity understanding;
7. Other minority rights.

Modalities of Project

1. Does the project bring people together to address issues they have identified as problematic and which they are setting off to bring solutions to?
2. What kind of project activities seem to be most relevant to achieve the objectives of the EIDHR programme?
3. Are there particular conditions or planning techniques and modalities that enhance or diminish their relevance in addressing the objectives of the programme?
4. Has the project identified and established functional linkages between grassroots practices and national policies related to the issues of the project?
5. What mechanisms have been in use by the project to develop sustained harmonious relationships between groups with conflicting interests?
6. How the project is innovative compared to similar other projects?

Scale of project

1. Is there any lesson to be learned from different sizes of projects and their relevance to the issues?
2. What are the advantages and disadvantages of very focused projects in practice? What are the advantages and disadvantages of wider ranging projects in terms of the number and variety of activities they carry out?

Location of projects

1. What elements in the choice of location (urban/rural/ peri-urban, centre/periphery) of a project are relevant to achieve the objectives of the EIDHR programme?
2. What difference does the urban or rural activities make to project replication, impact, multiplier effect?

Is the project methodology relevant to and effective for target groups?

1. Is the project's methodology participatory and if so how?
How effective has been the participation of members of minorities in:
project design,
implementation,
monitoring and
mid term evaluation of each project?
2. Does the project ensure shared ownership by the target group? How?
3. Does it measure this? How?
4. Were baseline studies carried out as part of project preparation?
5. Were participatory information collection methods used?
6. Were information collection methodologies purely extractive in design?
7. Was consultation carried out with intended project beneficiaries?
8. Did the beneficiaries perceive the project as relevant?
9. Did the beneficiaries perceive the activities as relevant?
10. What was the implementation methodology applied in the activity/ies handled by you?
In total how effective was the participation of minorities.

Is the project methodology relevant to and effective for other key actors?

1. Was consultation carried out with potential partners/ other actors before commencing implementation of the project?
2. Did other actors perceive the project as relevant?
3. Did other actors perceive the activities as relevant?
4. Is the project evolving to respond to new perceptions of needs?

Mainstream priority

1. Were the most excluded groups, e.g. women, children, victims of conflict prioritised within the project?
2. Were the most marginal within excluded groups (e.g. vulnerable groups) prioritised?
3. Have women and children's rights (for minority members) been a focus? How?
4. Has the project managed to mainstream children and women? How far?
5. Are there lessons for strengthening children and women participation in future? What ones?
6. Are there lessons for strengthening an integrated rights approach? Which ones?
7. Is training in gender analysis and mainstreaming provided?

Effectiveness

Project preparations

1. Were preliminary country assessment carried out?
2. Are log frames used by contractors? Are they used to monitor progress of a project? How?
3. If not, why not?
4. Were local partners involved in determining the whole budget?
5. Is the detailed budget known to local staff?

Organisational experience

1. Did the organisation have experience in this field of work? What experience?
2. Did the organisation have experience in this and other rights methodology? What experience?
3. Have they worked with others, especially EIDHR funded projects to learn from them?
4. Are the management, staff, and volunteer "representative" of

the dominant communities,
diversity in society,
or of minority communities?

How coherent is the project?

1. How far have the project objectives been achieved?
2. Has project been made more coherent by evaluations internal and external?
3. Does the project funding reinforce the perception of victims of discrimination as needy?
4. Does the NGO embrace the need to change attitudes in society and empower minorities?

Adaptation to changes in environment and local circumstances

1. Was any change to the project design or implementation necessary?
2. Were there opportunities to embrace criticism and modify the project?
3. Was any change necessary with regard to stakeholder involvement issues?
4. If so, why and what were the changes made? What lessons can be drawn from this?
5. How have regional projects adapted to respond to different local circumstances?

Impact and assessment of the outcome level

1. Have the rights and the needs of the target groups been advanced and met?
2. Did the project have a clear impact in improving the situation of target groups?
3. Did the project assist others in improving the situation of target groups?
4. Has the project led to changes in legislation and administrative practices by government?
5. Has the project led to changes in policies, programmes and funding by others?
6. Are there any unintended side-effects of the interventions?
7. Which unforeseen positive or negative effects of the project are evident?
8. Are there any multiplier effects of the project?
9. Other factors that might have enhanced the impact of the project?
10. What other difference has the EIDHR project made in practice?
11. What measurable impacts are made by the project to reduce the degree of violent conflict in the societies?

Sustainability

1. Was any exit strategy defined from the outset?
2. Was any exit strategy defined later?
3. Were exit strategies discussed with the “beneficiaries”?
4. Were exit strategies agreed with all implementing agencies?
5. Was the capacity of the beneficiaries strengthened to claim their rights?
6. Did the project strengthen the capacity of local partners?
7. How far does the project enhance the capacity of organisations to work together?
8. How far is there a sharing of good practice across projects in a country or the programme?
9. Were there opportunities to share methodological understanding with EU delegation?
10. Did the project integrate into other initiatives and create synergies?
11. How the outcomes of the project will be continued and expanded in future?
12. What strategies are put in place to maintain and/or enhance financial sustainability of the project undertakings?

Visibility and communication

1. Were the recipients/partners/beneficiaries aware of the role of the EU institutions in this field?
2. Were EU institutions, including Parliamentarians, aware of this project and its experiences?
3. Did the implementing NGO make sufficient efforts to publicize EC funding and EC policies?
4. Were there good communications with the EU on the operations of the project?
5. Were there good communications with central and local government on the project?

Staff performance

1. How was the coordination among staff in the project implementation?
2. What was your role during phases of project implementation?
 - Coordination
 - Implementation
 - Material development
 - Publication
 - Information dissemination
 - Monthly review and reporting to the Coordinator
 - Monthly sharing of the findings with the Coordinator
3. How were the monthly and quarterly Project Action Progress Reports prepared?
4. Explain, how you undertook overall project monitoring, preparation of performance data against each logical framework indicator.
5. How was the information collected and compiled?
6. Did you report on the monthly basis to the Project Coordinator on the progress of scheduled activities?
7. How were the monitoring findings used to improve planning and implementation of action and the activities?

Budget

1. Was the budget sufficient to implement the action?
3. Was adequate fund provided for each of the activities? If not, please indicate.
4. What was the impact of exchange gain and interest on the implementation of the action?