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Nepal Government should immediately accede/ratify to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, ICESCR (OP-ICESCR) to guarantee a complaint mechanism to seek effective remedy for violation of economic, social and cultural rights

Nepal acceded to the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1991 without any reservation. The Interim Constitution of Nepal, 2007 has incorporated many economic, social and cultural (ESC) rights as fundamental rights, and these rights will certainly be reflected in the new constitution being drafted by the Constituent Assembly. Still there is no effective national mechanism for remedy on the violation of ESC rights. The state ignores the ESC rights stating that they are the subject of progressive realization. Nepal is not a party to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR). This hinders implementation of the Covenant and denies right to seek remedy for its violation.

Nepal is currently undergoing an historic transition from a traditional ruling system to a democratic federal republic. The elected Constituent Assembly is tasked with drafting a permanent constitution for new Nepal. Despite numerous challenges and obstacles, this is a time of great hope and expectation for the country. Analysts argue that the conflict in Nepal was partly rooted in socio-economic and cultural inequalities resulting from the state's failure to ensure and protect ESC rights. In fact, denial of equal access to socioeconomic opportunities and development directly contributed to the armed conflict. To overcome such situation, Nepal must guarantee ESC Rights and set in place necessary mechanism to ensure effective remedy for violation. To attain this goal, Human Rights and Democratic Forum (FOHRID) calls upon Nepal Government to immediately accede/ ratify to the OP-ICESCR.

Once the Optional Protocol enters into force, it will allow anyone whose ESC rights have been violated to lodge a complaint before the Committee on Economic, Social and Cultural Rights, the UN independent body of experts responsible for supervising State compliance with all the rights protected in the ICESCR. The Optional Protocol will help to improve or enhance existing national complaints mechanisms for victims of violations on ESCR, and motivate States to comply more fully with the obligations imposed by the Covenant.

The existing mechanisms include judiciary, National Human Rights Commission (NHRC), National Women Commission and National Dalit Commission. After ratification of OP-ICESCR, the state will have the obligation to establish a specific national complaints mechanism to receive complaints and provide remedy in the violation of ESC rights. However, it is need of the hour to improve the existing complaints mechanism to address the issue of ESC rights.

It is necessary to strengthen the role of judiciary, NHRC, National Women Commission, National Dalit Commission to protect and promote these fundamental rights of the people. The citizens can seek remedy in case of violations of their ESC rights with these mechanisms. However, these commissions are not working effectively on ESC rights and there is no specific

body to deal with them. The national court has not developed adequate jurisprudence for remedy in the ESC rights violation as such cases are not filed with priority.

Human Rights and Democratic Forum (FOHRID) requests on behalf of the human rights and civil society to the Nepal Government to immediately ratify to the OP-ICESCR for improved realization of economic, social and cultural rights and guarantee remedy to the victims of violation of these rights. We request the NHRC, national human rights and civil society organizations to exert pressure for ratification of OP-ICESCR.

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