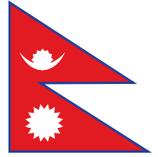


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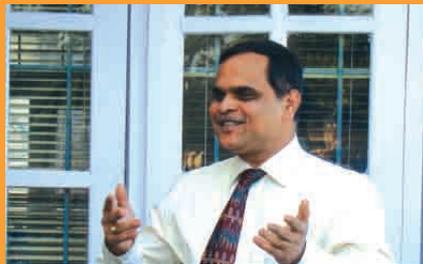
# IOM NEPAL

## REPARATIONS NEWSLETTER

*Fairness and Efficiency in Reparations*



### Message from Chief of Mission - Sarat Dash



I am pleased to present the inaugural issue of the "IOM-Nepal Reparation Newsletter". This publication will act as a forum for the dissemination of information pertinent to reparations and broader transitional justice issues in Nepal.

Nepal currently faces many challenges of post-conflict recovery, including the issue of redressing past human rights violations. The unique peace process and current transition offers Nepal an opportunity to address the concerns of the victims of conflict by providing meaningful reparations. This will, in turn, help in upholding victim's rights and institutionalizing peace and democracy.

I would like to take this opportunity to reiterate IOM's commitment towards working with the Government of Nepal, the international community and civil society to develop and help implement a comprehensive reparations program observant of international human rights laws, standards and norms in a transparent and consultative manner.

This quarterly newsletter comprises news of the joint IOM/OHCHR (Office of the High Commissioner for Human Rights) reparations project, opinion pieces and articles from readers, reports on best practices from other countries and news surrounding reparation and wider transitional justice issues in Nepal. I hope it will serve as a platform for disseminating information and incorporating feedback from readers.

### IOM and OHCHR Start Joint Project on Reparations

In May 2010, the International Organization for Migration (IOM), in partnership with the Office of the High Commissioner for Human Rights (OHCHR) launched the project "*Fairness and Efficiency in Reparations to Conflict Affected Persons in Nepal*". The project aims to strengthen and consolidate the peace process through efficient and transparent delivery of reparations to conflict victims. The project aims to:

- Establish a comprehensive reparation policy, which meets international human rights standards;
- Build the capacity of relevant government ministries and agencies as well as the Truth and Reconciliation Commission (TRC), Commission of Inquiry on Disappearance (COI-D), and
- Set up procedures, processes, and guidelines for a comprehensive reparations program.

This will be achieved by analyzing the Government's current relief and rehabilitation (interim relief) program and making needed adjustments and interventions to ensure access to all victims. The tools, guidelines and processes developed for the current interim relief program will feed into a future reparations program as designed and implemented by the TRC and the COI-D.

A key outcome of the project will be the development of a comprehensive reparations policy. This will be done in close coordination with the MoPR (Ministry of Peace and Reconstruction), OHCHR, victim groups, the International Center for Transitional Justice (ICTJ), Advocacy Forum (AF) and other relevant organizations. In order to align Nepal's reparations policy

with international human rights and humanitarian law standards, the project will take into account and incorporate issues pertinent to human rights, rights of women and children as well as of marginalized communities. These initiatives are designed to provide effective recognition and redress for past human rights violations while ensuring that the specific needs of the victims are prioritized throughout the process.



## Mapping Existing Mechanisms and Processes on Reparations

IOM has already begun a mapping exercise and preliminary gap analysis of the existing interim relief processes and mechanisms in Nepal. The objective of the exercise is to first map existing policies, stakeholders and procedures involved in the current relief process; second, to identify existing and potential gaps in the current process and lastly, to consider the implications of the current policies and procedures on a future reparations programme recommended by the TRC and COI-D.

An IOM reparation expert visited Nepal during the first two weeks of July to initiate this process, and will be working closely with the IOM reparation team in Nepal to provide input on the technical and overall aspects of the reparation program. Desk research, interviews and consultations with relevant stakeholders involved in the process are ongoing, and a preliminary draft document outlining the main findings of the mapping exercise is being prepared and expected to be finalized by early October.

## Strategic Meetings with Stakeholders

The IOM reparation team, including a reparation expert from IOM Headquarters, met several government as well as non-government stakeholders to brief them on the project and acquire primary information from the organizations on their involvement in the relief and rehabilitation program in Nepal. The reparation team met with the MoPR, Relief and Rehabilitation Unit (RRU), Task Force of MoPR, Ministry of Health and Population (MoHP), Department of Education (DoE), Officials from the District Administration Offices (DAO) in Bhaktapur, and Kathmandu, Conflict Victims Society for Justice (CVSJ), the International Centre for Transitional Justice (ICTJ), Advocacy Forum (AF), OHCHR, United Nations Development Program (UNDP), World Bank (WB) and The Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ).

Additionally, collaboration and partnership on information sharing and consultations with regards to reparation and its processes was agreed with the organizations, ministries, and agencies during these meetings.

## Development of Resource Bank on Reparations

IOM is designing and developing a resource bank on reparations. The purpose of this resource bank is to store and group documents associated with reparations, compensation, relief and rehabilitation in Nepal. This will ensure easy access to relevant documents during the project itself and also act as a resource after the completion of the project.

Additionally, the resource bank will house documents pertaining to principles, procedures, processes and best practices on reparations elsewhere and will be accessible to policy makers, executives and, academics, amongst others. IOM will seek contribution of relevant materials and resources on reparations to the resource bank

## Meeting of Project Management Committee (PMC)

The first meeting of the Project Management Committee took place on 27th July 2010, at the IOM conference room in Baluwatar. The meeting was attended by representatives from IOM, OHCHR and the Ministry of Peace and Reconstruction (MoPR).

The meeting focused on formalizing the membership of the PMC, finalizing and adopting the Terms of Reference (TOR) of the PMC and sharing of progress on the project by IOM and OHCHR.

## Joint Field Missions with OHCHR

IOM and OHCHR have conducted two joint field missions in the eastern and mid-western regions of Nepal. The team consisting of members from the reparations unit in IOM and members of the Accountability, Impunity and Rule of Law (AIR) team in OHCHR visited Biratnagar and Nepalgunj. During the mission, the team interviewed and held consultations with representatives of the District Administration Offices, District Education Office, District Development Office, Women's Development Office, District Public Health Office, local NGOs and with victims. The objective of the mission was to take stock of the current state of the relief programme and gather material for the Mapping Exercise and the Gap Analysis.

Additionally, as a part of the mapping and preliminary gap analysis of the ongoing interim relief programme, IOM's reparation team visited the District Administration Offices (DAO) in Bhaktapur and Kathmandu.

## External News Regarding Reparations and Transitional Justice (TJ)

### *AF and UNFPA Hold Training of Trainers (ToT) on Women and Transitional Justice*

Advocacy Forum (AF) in collaboration with the United Nations Population Fund (UNFPA) has held 5 regional-level Trainings of Trainers (ToT) on women and Transitional Justice (TJ). This Trainings of Trainers (ToT) were targeted towards Women Development Officers, Secretaries and members of the local peace committees, women representatives of political parties, women journalists, women human rights defenders and victims of conflict. The objective of the ToT was to enhance the knowledge on participation of women in various transitional justice mechanisms and to uphold the rights of victims of conflict by ensuring truth, reparations and justice.

The three-day ToT included sessions on each TJ mechanism. Using a participatory approach, participants were exposed to theories and best practices on truth commissions, reparations, prosecutions and institutional reform. They also discussed their possible role once these mechanisms were set up in Nepal. Moreover, the overall theme of the ToT was mainstreaming gender in TJ processes including reparations in Nepal. During the ToT, a resource manual on women and transitional justice was also launched. The final ToT was held in Kathmandu on 27-29th June.

### *ICTJ Conducts Workshop on Reparations*

The International Center for Transitional Justice (ICTJ) held a workshop in Kathmandu on 'Reparations in Nepal' on April 21st and 22nd 2010. This workshop focused on challenges faced by Nepal in dealing with past human rights abuses as well as challenges faced during the distribution of the current interim relief program.

The participants at the workshop highlighted the reports of politicization of the process, the lack of outreach, and the lack of acknowledgement of human rights violations during the distribution of the relief by the government. Ruben Carranza, Director of ICTJ's Reparations Program, provided comparative knowledge on reparations experiences around the world.

## Update on Relief Distribution by MoPR

The following table consists of information regarding the status of implementation of interim relief by the Government of Nepal, Ministry of Peace and Reconstruction (MoPR). The data below was provided by the Relief and Rehabilitation Unit at the MoPR. The table shows that a total of NPR (Nepal Rupee) 2,099,778,759 (USD 28,76M) has been spent to date on providing interim relief to victims of conflict. The group receiving the largest amount of assistance is that of the immediate beneficiaries of those killed in the conflict with a total of NPL 1,406,400, 000 (USD19.2M).

S.No	Title	Total number of cases	Assistance provided to	Total Expenditure (Rs)	Remarks
1	Financial assistance to the immediate beneficiaries of the deceased	16, 729	14, 064	1,40,64,00,000	July 2010
2	Relief to immediate beneficiaries of disappeared persons	1327	1179	11,79,00,000	July 2010
3	Relief for private property loss	11, 775	1238	7,23, 76, 759	
4	Financial assistance to the abductees	1219	221	55, 25,000	
5	A. (Life long) Subsistence allowance to the family of Martyrs of Jana Andolan II	26	26	27, 21,000	
	B. (Life long) Subsistence allowance to those injured in Jana Andolan II	23	23		
	C. Scholarship for disabled children	30	30		
6	Financial assistance to the disabled persons	4,305	1567	6, 31, 56,000	
7	Financial assistance to widows	9000	3668	9,17,00,000	
8	Relief to internally displaced persons (IDPs)	52,000	25,000	34,00,00,000	
9	Relief to immediate beneficiaries of the deceased killed in the incidents that occurred after the Comprehensive Peace Agreement was signed	152	6		Amount yet to be released

Other categories not included in the table above are scholarships to children of deceased, to children of the disappeared, to disabled children and to children of the disabled during the conflict.

### External News continued

#### *ICTJ Conducts ToT on Transitional Justice*

The International Center for Transitional Justice (ICTJ) completed the second and final phase of its Training of Trainers (ToT) on Transitional justice (TJ) in Kathmandu from the 23rd of June to the 27th of June 2010. The first ToT was a 10-day program that took place in February

2010. The overall objective of these trainings was to increase knowledge on TJ at the grass-root levels as well as to create a team of trainers who can raise awareness on TJ in the regions.

During the second five-day ToT, trainers were given more in-depth information and training on the basic concepts of TJ and were also assisted in improving their facilitation skills. The ICTJ also

provided each participant with a training manual that includes conceptual information on TJ, TJ in Nepal and facilitation skills as a tool for future trainings. With the assistance of the ICTJ, participants of the ToT will conduct further trainings on TJ in their respective regions.

Article by

## Janak Raut (Chairperson-Conflict Victims Society for Justice-Nepal)



**Mr. Janak Raut**

### Transitional Justice and Reparations in Nepal (Op-ed)

It is clear like the rays of the sun that Nepal and Nepali citizens have been oppressed due to the 10-year long armed conflict in Nepal. Many young sons and daughters of Nepal lost their lives; many daughters became victims of rape and many became widows. In the same way, thousands of children became orphans and many of them have lost their limbs and hands and became disabled. Many are suffering from psychological trauma due to torture and are living with physical discomfort and disease. Similarly, many citizens have disappeared and many have lost their homes and lands and are compelled to lead a troublesome life. Following huge political change, Nepal is in transition and now moving towards sustainable peace, democracy and writing the constitution of the country. But this transition cannot pass and the peace process cannot reach a logical end without providing redress to victims of past human rights violations. Victims have faced and continue to face individual and social agonies while waiting for truth, justice and reparations from the government. Justice for the victims has been a mirage.

Considering the immediate needs of the victims of conflict, the government has provided some relief packages. This is a positive step but attention must be paid to the relief distribution process, selection process of the victims, process of keeping records of the victims etc., which has been largely missing in the current interim relief program. The principal problems pertaining to the exclusion of certain human rights violations from the definition of victims such as rape and torture victims as well as procedural gaps such as exclusion of certain victims from the victim

database due to the flawed collection of names must be addressed in the comprehensive reparation program and in policies and procedures developed to implement it. The voices and concerns of the victims cannot fall on deaf ears anymore because they are now organized and are raising their voice for justice from the government. They have been demanding the formation of the Truth and Reconciliation Commission (TRC) and the Commission of Inquiry on Disappearance (COI-D) with amendments in favour of the victims and in line with international human rights law and standards which have been proposed and registered in the parliament by the government.

But taking the fluid political situation of Nepal into account, the process of passing the bills on TRC and COI-D and their subsequent formation can take years. The delay in the formation of the commissions has led to disappointment amongst the victims towards the government and the political parties. In such a situation, it seems that the phrase "Justice cannot wait" is relevant and the formation of both commissions must be prioritized and expedited. Justice must be delivered to the victims and perpetrators of human rights violation must be held accountable.

However, the present political situation of Nepal and the work of the commission, if and when formed, leave no doubt amongst the victims that their fight for justice still has a long way to go. Having said this, it must be noted that the recent initiative of the Ministry of Peace and Reconstruction (MoPR), the International Organization for Migration (IOM), and the Office of the High Commissioner for Human Rights (OHCHR) to work on developing a comprehensive reparation policy as well as look at the gaps of the current relief process and address them is a step towards redressing past human rights violations. This should be considered as a positive aspect as reparations are one of the significant components of receiving justice for the people who have been victimized and are forced to live in very poor economic conditions. Reparations play a vital role in acknowledging the crimes of the human rights violators. Preparing the policy, procedures, and processes of reparations and its subsequent implementation prior to the formation of the commissions can also lead to a certain extent of truth telling leading to identification of victims and responsibilities along with crucial information pertaining to the violations that occurred in the past. Also, reparations are tangible and can go a long way towards addressing the needs of the economically poor and marginalized victims of Nepal's conflict. Most importantly, a comprehensive reparations programme now will also ensure to some extent the documentation and safety of evidence, crucial for the work of the future TRC and COI-D. This evidence can be lost if the process of forming the two commissions

takes a long time.

If we look at past experiences, it can be seen that transitional justice processes usually start with the formation and work of a truth commission. It can also be seen that the work of a truth commission is lengthy and cumbersome and has yielded little towards the successful delivery of reparations to victims. Transitional Justice is holistic and context specific. What worked or didn't work in South Africa or Timor-Leste may not necessary be the same in Nepal. In fact, reparations can be an excellent and relevant entry point towards implementing transitional justice mechanisms in Nepal. Therefore, formulating a victim-centric reparation policy in advance by paying attention to the needs and expectations of the victims in a consultative manner can be a first step towards redressing past human rights violations. This policy and procedures can also be beneficial for the future commissions to tailor their recommendation to the needs of the victims already identified by the existing reparation policy and programs.

Lastly, we can all expect Nepal to stand as an example of a country where reparations can be an entry point of transitional justice and as a first step towards redressing past human rights violations. This is possible only if the MoPR, IOM and OHCHR are victim centric, and the reparations policy and programmes designed are gender sensitive and implemented in an impartial and independent manner.

The International Organization for Migration (IOM) is the leading organization working with migrants and governments in providing humane responses to migration challenges worldwide. It works in the four main areas of migration management: migration & development, regulating migration, addressing forced migration and facilitating migration. Established in 1951 and headquartered in Geneva, it has 127 Member States and 17 Observer States.



IOM International Organization for Migration

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