

## United Nations Peace Fund for Nepal (UNPFN) Project Status Update

*As of 28 October 2010*

<b>Participating UN Organization:</b>	United Nations Office of the High Commissioner for Human Rights in Nepal	<b>UN Fund cluster and Nepal PBF Priority area:</b>	Rights and Reconciliation
<b>Project number:</b>	UNPFN/E-2 (PBF/NPL/B-3)	<b>Funding round Strategic Outcome:</b>	
<b>Title:</b>	<b>Transitional Justice Project</b>		
<b>Total approved project budget:</b>	<b>US \$ 1,999,830</b>		
<b>Funds committed:</b>	441,290.40	<b>% of approved:</b>	22.06%
<b>Funds disbursed:</b>	851,230.09	<b>% of approved:</b>	42.56%
<b>Forecast final date:</b>	31 August 2011	<b>Delay (months):</b>	12 months
<b>Anticipated total project duration:</b>	2 years		

<b>Outcome</b>	<b>Progress: achievements / results / outputs delivered</b>	<b>% of planned</b>
Draft bills on the Truth and Reconciliation Commission (TRC) and Commission of Inquiry on Disappearances (CoID) tabled in Legislature-Parliament.	Both the draft bills on TRC and CoID were approved by the cabinet and are tabled at Bill Committee in the Legislature-Parliament.	50%
Three regional, four cluster and three thematic consultations (gender, children and minority) held to discuss the draft TRC bill.	The draft bill incorporated most of the concerns raised by the various stakeholders to make the bill in conformity with international human rights standards. There remain nevertheless some important elements to be incorporated (details given below in the second and third paragraphs of qualitative achievements... section)	95%
A study visit organized for the high level delegation on TRC process in South Africa.	The high level officials of the Ministry of Peace and Reconstruction (MoPR) visited South Africa to understand their TRC process; best practices and lessons learnt.	100%
With the benefit of a Conflict Mapping Report, a Dataset of incidents and a Reference Archive, the MoPR, TRC and the CoID are able to plan and conduct their transitional justice work effectively	The Mapping Team has developed a functional Dataset consisting of several thousand incidents containing an allegation of a serious violation of human rights or international humanitarian law and a Reference Archive consisting of over 25,000 documents.	90%
Civil society organizations strengthened to provide appropriate support to victims and participants to the Commissions.	Twenty-five national civil society organizations are implementing 17 projects in 31 districts of the country to raise awareness on transitional justice and organize conflict victims for joint advocacy. Some new victims are approaching the local authorities for reparations and compensation after attending the TJ awareness	90%

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### Qualitative achievements against objectives and results and any challenges

Under Output 1 (**Support to the Ministry of Peace and Reconstruction**), adequate support has been provided to the Ministry by OHCHR to conduct three regional, four cluster and three thematic (gender, children and minority) consultations with the victims groups on the draft Truth and Reconciliation Commission bill. The support to organize consultation with children on the draft bill was provided by OHCHR and UNICEF jointly.

Similarly, as a continued support to the MoPR, comments were provided by OHCHR on the draft bill on the Commission of Inquiry on Disappearances and provided technical support in revising the draft bill on a Truth and Reconciliation Commission to ensure its conformity with international human rights standards. In spite of the strong advocacy campaigns and wide consultations, both at national and regional levels and including with indigenous, children and women's organizations, the bills have been passed by the cabinet but not by the legislature-parliament. Furthermore, in the current version of the TRC bill, there seems to be a lack of a statutory guidance requiring the transparent process for the selection of Commissioners, the absence of the Commission's independent ability to appoint the Secretary and its staff, inclusion of amnesty provisions which could undermine the State's obligations to investigate and prosecute human rights violations constituting serious crimes under national or international law, the emphasis on reconciliation approach which may undermine the rights of victims (for instance, linking reparations with reconciliation), and the need for greater protections for witnesses and victims.

Similarly, the Draft Bill on Enforced Disappearance has serious weaknesses in terms of criminalizing enforced disappearances as well as in terms of providing a legal framework for establishing a Commission of Inquiry on Disappearances. The weaknesses include: a 'reverse' burden of proof (shifted to the accused), definitions of offences inconsistent with international law, low penalty for enforced disappearance (7 years without lower limit) not reflecting the severity of offence, restrictive statutory limitation (6 month) in which complaints need to be lodged, non-coverage of enforced disappearances as a crime against humanity, failure to set out a transparent process for the selection of Commissioners, lack of robust witness protection provisions

Furthermore, OHCHR supported for a study visit of a 3-member team from the MoPR to South Africa in July 2010. The purpose of the visit was to make the policy makers understand South African TRC process; the best practices and lessons learnt. With the support from the project, the MoPR has initiated to establish a TRC resource Centre in the outskirts of the Singha durbar premises.

Output 2 (**Support to the TJ Commissions**) has seen minimal achievement due to the significant delay in the establishment of the Commissions. Political instability, increasing misunderstanding and mistrust between the political parties contributed to the delay in the formation of the two commissions – CoID and TRC. The political climate remains unpredictable with regard to transitional justice initiatives, including on the establishment of Commissions. Thus, the activities under Output 2 have been delayed.

In Output 3 (**Conflict Mapping**), the Conflict Mapping Team has been deployed since February 2010 and has completed roughly 90% of the work. They have catalogued several thousand case incidents in the Dataset and are in the final stages of producing thematic chapters on a conflict narrative, unlawful killing, torture, disappearance, sexual violence, applicable law, most impacted areas and groups, chain of command and accountability. The Mapping team is slated to finish at the end of October 2010 by handing a final draft version of the draft 'Conflict Mapping Report' (along with a Dataset and Reference Archive) to the OHCHR Nepal for review, clearance and further dissemination.

Under Output 4 (**Civil Society Grant Fund**), OHCHR called for applications for funding through media and received more than sufficient interest from civil society groups: 276 proposals were received which included programmes and activities on awareness on transitional justice, support to conflict victims, victim documentation, production of materials on TJ and public interest litigations.

- Five projects implemented activities on raising public awareness on transitional justice. One of them was a television talk show on the reports of commissions constituted to investigate into the past cases of gross violation of international human rights law and serious violations of

international humanitarian law. Based on a viewership survey, it is estimated that around 1.29 million viewers watched the programme and were sensitized about transitional justice. Another public awareness project was a street drama on transitional justice at 50 locations of 10 mid and far western districts. More than 18,000 people watched the performances and a sample survey conducted in these locations showed that the level of understanding among the viewers about simple facts on transitional justice before the performance was some 27 percent and after the performance it went up to 87 percent. The remaining three public awareness projects are producing and broadcasting radio programmes on transitional justice in local languages. These projects are expected to increase public awareness on transitional justice, at least in their catchments areas of 6 districts.

- Three projects have activities targeted to directly support conflict victims in the project districts and involved the conflict victims in various affected districts to advocate for justice, sharing information about how they should participate in the transitional justice process **before and after the transitional justice mechanisms are formed. After counselling services, four conflict victims in Gorkha district, who were not aware about the government provisioned relief assistance before, are reported to have contacted the local administration and availed the relief package. Some 9,000 conflict victims have been organized in groups and networks in 22 districts.** There are two projects compiling documentation of conflict victims in two districts – Ramechhap and Gorkha. The project in Ramechhap has gathered information on around 5 thousand conflict victims including 215 killings and 25 disappearances. The other types of victims in the compilation include those of displacement, physical torture/assault, disability, property confiscation and psychological trauma. Similarly, the project in Gorkha has collected information on 374 cases of (337 killings, 26 disappearances and 11 permanent disability) victimization. International Institute for Human Rights, Environment and Development (INHURED International) has completed almost 80% of work for the production of a docudrama on transitional justice.

#### **Programme Challenges:**

**Political Stalemate:** The political instability and misunderstanding and mistrust between the political parties contributed to the delay in formation of the two commissions – Commission on the investigation of Disappeared Persons and Commission on Truth and Reconciliation which directly affected the implementation of the activities. Also, It is affecting the participation of victims in local level activities. The victims are still not assured of justice and they have serious apprehensions about the political settlement.

#### **Delay in the formation of TJ commissions:**

The absence of transitional justice mechanisms (TRC and CoID) has been an issue for the implementation of some project activities. While discussing these mechanisms in activities related with public awareness and support to conflict victims, the reference to the mechanisms becomes hypothetical.

#### **Coordination among grantees and victims:**

The grantees under the civil society grant fund are scattered almost throughout the country and there is no provision of resources for bringing them together to share their achievements, experiences and lessons - sharing and coordination among the grantees could be stronger. However, the Transitional Justice project will try to organize regional level sharing meetings among the grantees. The political division between the victims themselves is another challenge in some districts and regular engagement with them is required to address this situation.

#### **Progress against key indicators in the UNPFN Monitoring and Evaluation framework**

**Objective/Strategic outcome 8:** Enabled the Government of Nepal to establish functioning Committees and Commissions responsible for addressing transitional justice through the implementation of the CPA and other Peace Agreements:

Output 1:

**Target:** Enactment of the legislation – Disappearance Act by Jan 2010 and TRC Act by June 2010

**Progress:** In spite of the strong advocacy campaigns and wide consultations, there was limited progress in

adaptation of the bills due to the political stalemate in the country. Both the draft bills were approved by the Cabinet and were tabled at bill Committee in the Legislature-Parliament

**Source of information:** The Ministry of the Peace and Reconstruction

Output 3:

The Mapping report is a precursor to the establishment of the Two Transitional Justice Commissions – neither of which is online.

Output 4:

**Target:** 13 grants provided to local NGOs until August 2010

**Progress:** 17 grants to local NGOs approved

**Source of information:** OHCHR grant committee minutes