

Name: National Alliance of Women Human Rights Defenders (NAWHRD)

Country: Nepal

Date of submission: 18/06/2012

Questionnaire on the use of legislation, including criminal legislation, to regulate the activities and work of human rights defenders

1.

a) Please indicate if your country has a specific legal framework, laws or regulations that aim to facilitate or protect the activities and work of human rights defenders. Please cite the names of any such laws or regulations in full.

We don't have specific laws to protect human rights defenders. We don't have particular national mechanism to protect defenders. If something happens to HR defenders, the case goes to Police as a general case. Human rights defenders have been demanding to establish such kinds of protection mechanisms in Nepal. Human rights defenders who are threatened or harassed or attempted to attack, they have either left the country or hid inside the country for the sake of life security. No national law protects the work and activities of human rights defender in Nepal.

b) Please indicate how these laws and regulations are in line with international human rights standards, including, but not limited to, the Declaration on Human Rights Defenders.

We don't have any laws or policy for the protection of Human Right Defenders thus this question is not applicable to us.

c) Please also indicate what legal or administrative safeguards are put in place to prevent baseless legal action against and/or prosecution of human rights defenders for undertaking their legitimate work.

We don't any legal or administrative Safeguards for Human Right Defenders.

2.

a) Please describe the measures taken, if any, to ensure that your country's national security-related laws (including laws on public order, public safety, respect for morals and counter-terrorism laws) are not used to unduly restrict the scope of activities of human rights defenders.

There are no any measures.

b) Please also indicate in particular how these national security-related laws respect the human right to freedom of expression and opinion.(it doesn't)

Mainly restriction on freedom of speech or opinion can be occurred due to government policy or particular government officials in certain time. These kinds of obstacles happened before when government tried to stop such activities or political apprising or movement. This kind of acts often happens as per the government's internal policy rather than imposing laws.

Security related Laws and regulations are imposed to control the crowd or protest and mainly used by CDO or Police.

3.

a) Please describe the measures taken, if any, to ensure that provisions of the criminal code, or other national laws, are not ambiguous or too broad to allow their arbitrary use, thereby restricting the activities of human rights defenders.

The order of CDO that restricts human rights activities. Nepal Army Law has some provisions that they can fire against some body, if they feel risk. According to Army Yen, no further evaluation of situation from Army requires. It's a scary provision that any army personnel can kill civilian based on these kinds of provision. Specifically article 22 of Army Act 2063 says, 'someone suffers death or loss while a person under the jurisdiction of this Act is committing an act in the course of discharging his/her duties in good faith, no case shall be filed against such person in any court'. HR org has been discussing to file a written petition seeking to amend this provision.

b) Please indicate what legal or administrative safeguards are in place in order to ensure that human rights defenders are not discriminated against in the administration of justice, be it through the handing down of disproportionate sentences, the unreasonable prolongation of criminal or other trials, or any other means.

None of the administrative safeguards are in place from state side to insure safe working space and guarantee of life security for human rights defender. Human rights defenders are compelled to work putting them at risk.

4.

a) Please indicate if your country has specific laws or administrative rules governing the registration, functioning and funding of non-governmental organizations. Please cite the names of any such laws or regulations in full.

Non-governmental organizations (NGO) are registered in district administration office as per the organization registration act 2034 and monitored by Social Welfare Council under SWC act and regulation. District administration also monitors organization's activities. In certain issues, SWC Act allows for funding to the NGOs.

b) Please explain how these legal or administrative provisions comply with your country's international human rights obligations regarding the right to freedom of association.

There is no such restriction in place legally against the rights to freedom of association. Practically, in some business or corporate houses are seen barring to unify labors, although labors are free to be united according to the labor law 2048.

Corporate houses are seen against the rights of union in their company or factory and sometimes they kick out labor leaders from their job alleging them disturbing other labors. An article 13 (D) of the Interim Constitution 2063 guarantees the rights of freedom of association.

5.

a) Are there criminal or other legal or administrative sanctions for human rights defenders who undertake activities on an individual basis or while the association they are members of is unregistered?

De jure there are no such sanctions however de facto there are many. This applies particularly to Human Right Defenders who are journalist, working on land right, sexual rights and in minority rights. Women Human Right Defenders are the worst victims of such sanctions. No laws and regulations are in place to detect individual activities of human rights defender. For official work and activities, organization should register in the CDO office.

b) If such a legal framework exists, does it restrict the type of activities that human rights defenders can undertake? If yes, please provide further details.

Openly no legal frame works are set up to control human rights activities. however all actions of human right defenders gets controlled by State machinery when they like, but the worse scenario is for women human right defenders who are working at community level . There work is not recognized as human Right work. Police who are supposed to protect these women human right defenders usually restrict the actions of women human right defenders mentioning that the women are going against the social norm(especially for those women who work on VAW and Sexual rights), established social practices(especially for those women human right defenders who work on Right to land) and culture(who are active to transform discriminatory socio-cultural practices)

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Please indicate the measures taken, if any, to ensure that internal security and official secret-related laws are not used to deny freedom of information to human rights defenders and to prosecute them for their efforts to seek and disseminate information on the observance of human rights standards.

None of the laws denies basic rights but practically laws are in hand of state authorities. State mechanisms are not properly functioning to ensure the rights guaranteed by the law. Courts system has a lot of errors and it's very lazy and corrupted.

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. a) Please indicate the measures taken, if any, to avoid the use of defamation, slander or blasphemy laws to unduly restrict the right to freedom of opinion and expression of human rights defenders.

Mainly state authorities have used threats and harassments to suppress the rights movement. During the conflict government imposed media censorship and restriction on freedom of speech banning Radio, Television and print news. We have experienced the restriction on freedom of assembly in public places during the conflict time. Human rights defenders, lawyers and journalists were barred to go the working place and compelled to leave their original place due to threats and unhealthy environment. Some human rights activists were detained tortured and forced to leave country by the state force.

b) How is it ensured that such laws, as well as laws on printing, publication and censorship, comply with international human rights standards and do not target human rights defenders carrying out their legitimate work?

Except TADA law, rests of other laws are seemed to be media friendly. Legally no laws are imposed to curb freedom of expressions but in practice, state authority imposes such media restriction and censorship when people's apprising movement happens. In this kind of situation, government targets to media and human rights movement, because they don't want criticizes or condemnation.

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. Please indicate if any other type of legislation is used to regulate the activities of human rights defenders in your country and how the application of the legislation mentioned affects the activities of human rights defenders. Please cite the names of any such legislation in full.

The Press council act 2048 and press and publication acts 2048 regulate the media (press) activities. Organization act 2034 (Sang Sastha Yen) regulates the NGO's activities as well as human rights organization's activities.