

**HUMAN RIGHTS ACCORD BETWEEN  
THE GOVERNMENT OF NEPAL &  
THE COMMUNIST PARTY OF NEPAL – MAOIST (CPN-M)  
DRAFT**

**PREAMBLE**

BEARING IN MIND that the people of Nepal have expressed their overwhelming desire for development, peace and human rights as evidenced by the view of the people expressed in the recent peaceful pro-democratic movement

TAKING INTO ACCOUNT the declaration of ceasefire by the Communist Party of Nepal (CPN-M) (*hereafter referred to as "CPN-M"*) on 26 April 2006 for a period of three months, and the declaration of ceasefire by the Government of Nepal (*hereafter referred to as "the Government"*) on 3 May 2006,

RECALLING that both the Government and the CPN-M (*hereafter referred to as "the Parties"*) have repeatedly expressed their commitment to human rights and international humanitarian law at the national and international levels, including through the Government's Letter of Commitment of 26 March 2004 and the CPN-M's statement of 16 April 2006,

RECOGNIZING that the conflict has affected large portions of the population and continues to cause enormous loss of human life, human suffering, displacement, destruction, disruption of normal life, and impoverishment of the Nepali society,

RECOGNIZING that social injustice and impunity are factors that continue to fuel the conflict and are opposed to the human rights and dignity of the Nepali people;

RECOGNIZING that respect for human rights and international humanitarian standards is fundamental for achieving peace, justice and development;

MINDFUL that Nepal is a party to a number of human rights treaties, international humanitarian law conventions, and is bound by customary international law, *jus cogens* and the general principles of international law as well as by existing national legislation which recognizes human rights standards;

RECOGNIZING that effective compliance with Human Rights Accord will not only contribute to improvement of the human rights situation, but it will also be fundamental in building confidence between the Parties and setting the climate for negotiations with a view to putting an end to the conflict and restoring peace in Nepal;

RECOGNIZING the fundamental role of the National Human Rights Commission (NHRC) in the promotion and protection of human rights as mandated in its Act of 2053 (1997) and the contribution it can make to improve the human rights situation while promoting peace efforts;

The Parties have agreed as follows:

**CHAPTER I – GENERAL PROVISIONS**

- 1.1 Both Parties re-affirm their commitment to respect and protect human rights and international humanitarian standards. In doing so, there shall be no discrimination of any kind such as race, color, sex, language, religion, caste, tribe, political or other opinion, national or social origin, property, disability, birth or other status.
- 1.2 The Parties recognize the right of the Nepali people to enjoy the exercise of the full range of civil, political as well as economic, social and cultural rights, and in particular the rights mentioned in

Chapter II. In this connection, the Parties commit themselves to respect and protect these rights and to immediately take measures to stop any obstruction to their exercise by the Nepali people and prevent further violations.

- 1.3 In conformity with its international obligations, the Government shall review existing legislation with a view to ensuring its conformity with international human rights and humanitarian standards. It will also ensure effective implementation of national legislation which incorporates human rights and humanitarian standards.
- 1.4 The Parties recognize that the laws of war do not provide combatants with unlimited and arbitrary choice of methods and means of warfare. In this connection, the Parties shall ensure that the civilian population, their property and means of survival, as well as any other non-military infrastructure is to be spared from any direct or indirect attack.
- 1.5 The Parties commit to ensure that persons not taking active part in the hostilities, including members of armed forces who have laid down their arms and those placed '*hors de combat*' by sickness, wounds, detention or any other cause, will be protected.
- 1.6 Individuals liable for violations on the rights specified in this Accord shall be subject to investigation, and, if evidence warrants, to prosecution and trial. Both Parties recognize that orders from a superior or a public authority may not be invoked as a justification for the violation. The Parties commit to a zero-tolerance for impunity, and recognize the right of redress, including compensation and rehabilitation for victims and their families.

## CHAPTER II- SPECIFIC RIGHTS

Notwithstanding the above provisions and recognizing the importance of all human rights, the Parties agree to immediately take such steps as necessary to ensure the respect and protection of the rights mentioned below.

### 2.1 Right to life

- 2.1.1 The Parties shall respect and protect the inherent right to life of every human being. In this connection, no one shall be deprived of this basic right, neither through summary or arbitrary execution nor by the passing of sentences. This right also applies to persons taking no active part in the hostilities, including members of armed forces who have laid down their arms, retired security personnel and/or on home leave, and those placed '*hors de combat*' by sickness, wounds, detention, or any other cause.

### 2.2 Right to personal dignity

- 2.2.1 The Parties shall respect and protect the right to personal dignity. In this connection, no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, including those that have been deprived of their liberty.

### 2.3 Right to liberty and security

- 2.3.1 The Parties shall respect and protect the right to liberty and security of person. This means that no one shall be subject to illegal or arbitrary detention, abduction or taken as hostage.
- 2.3.2 The Parties commit to establish the fate and whereabouts of persons reported as disappeared, and produce relevant evidence to their family members, counsel or other persons having a legitimate interest in the information. The Parties recognize the right of all individuals deprived of their liberty to communicate with the outside world

including their family members or counsel. The Parties recognize that no one shall be held incommunicado and that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

#### **2.4 Right to liberty of movement**

- 2.4.1 The Parties shall respect and protect the right to liberty of movement and freedom to choose one's place of residence. In this connection, the Parties commit to respect the right of those displaced to return to their original residence or to settle in an adequate place of their own choosing.
- 2.4.2 The Parties recognize the importance of the work carried out by human rights and humanitarian organizations and commit themselves to ensure they have liberty of movement and unhindered access throughout the country. Similarly, the Parties commit not to create obstacles but rather facilitate the free passage of humanitarian assistance, including food, medicine and clothing.

#### **2.5 Right to freedom of opinion, expression, association, assembly and the exercise of political rights**

- 2.5.1 The Parties shall respect and protect everyone's right to freedom of opinion, expression, association, and to assemble peacefully.
- 2.5.2 The Parties also recognize and respect the right of every citizen to take part in the conduct of public affairs, directly or through freely chosen representatives, to vote and to be elected and to have access, on terms of equality, to public service.
- 2.5.3 The Parties shall respect people's right to be informed and ensure that the killings, death threats, disappearances, abductions and other human rights violations or abuses committed against journalists, human rights defenders, teachers, members of political parties, elected civilian authorities and individuals exercising any of these rights shall be immediately stopped and prevented from occurring.

#### **2.6 Right to work**

- 2.6.1 The Parties shall respect and protect the right to work. The right to work includes the right of the individual to gain his/her living by work which he/she freely chooses or accepts. In this respect, the Parties shall ensure that killings, threats to life, acts of torture and any other kind of human rights violation or abuse against an individual and/or his/her family member/s due to the position he/she holds are immediately stopped and prevented from occurring.

#### **2.7 Right to food**

- 2.7.1 The Parties shall respect and protect the right to food. The Parties shall ensure that there is no interference with food deliveries and circulation of food products, and that these will not be used as a tool of war. Similarly, the Parties commit to respect and protect the means of survival of the civilian population, including agricultural areas, food products, crops, livestock, drinking water installations and irrigation works.

#### **2.8 Right to health**

- 2.8.1 The Parties shall respect and protect the right to health. In this connection, military or civilian medical units, transport and personnel will be respected and protected at all times.

- 2.8.2 The Parties commit themselves not to hinder the delivery of medical supplies, assistance, and the carrying out of health campaigns but rather to facilitate the process.

## **2.9 Right to education**

- 2.9.1 The Parties shall respect and protect the right to education. In this connection, the Parties commit to respect schools as 'peace zones' and ensure the exercise of the right to education is not violated.
- 2.9.2 The occupation and use of school facilities by armed individuals and the massive abductions of teachers and students are strongly condemned by both Parties. The Parties commit themselves to immediately stop such illegal acts, release those abducted, and render the schools back to the educational authorities.

## **2.10 Women and children rights**

- 2.10.1 The Parties recognize that women and children are entitled to special protection.
- 2.10.2 The Parties shall prevent acts of violence against women and children, including rape or any form of indecent assault, and where such acts are alleged to have occurred, these shall be independently investigated, the perpetrators brought to justice, and the victims adequately compensated.
- 2.10.3 The Parties condemn the use of children as soldiers, porters, and cooks as well as forced abductions for indoctrination purposes.
- 2.10.4 The Parties ensure that involvement of boys and girls under the age of 18 in the armed conflict will be immediately stopped. Such affected children shall be immediately released, and proper assistance shall be provided for their rehabilitation.

## **CHAPTER III – IMPLEMENTATION AND MONITORING COMPLIANCE**

- 3.1 The Parties recognize the statutory role of the National Human Rights Commission of Nepal (*hereafter referred to as "NHRC"*) and entrust NHRC to monitor and verify the implementation of the Human Rights Accord. NHRC will receive, verify and analyze information regarding compliance with the present Accord. NHRC may also initiate investigations on its own initiative as it deems appropriate. NHRC will determine whether or not a violation of human rights or international humanitarian standards has occurred on the basis of the information available. NHRC shall equally recognize victims of the conflict who have suffered from the actions of Government and CPN-M and will monitor the provision of adequate remedies. NHRC will regularly communicate its findings and recommendations to the respective Parties and make reports public as it deems necessary.
- 3.2 As per Human Rights Commission Act 2053 (1997), NHRC will be able to exercise all of its powers in order to monitor the implementation of the present Accord.
- 3.3 The Parties agree to give their full support and cooperation to NHRC in carrying out its statutory role, including the monitoring of the present Accord. The Parties agree to ensure NHRC and individuals working on behalf of NHRC have free movement throughout the country as well as security, including that of any person providing information to NHRC.

- 3.4 The Parties shall respect the integrity of NHRC representatives and people working on its behalf, as well as that of premises, documents, material, equipment and modes of communication and transportation.
- 3.5 Both Parties shall provide timely information as requested by NHRC, and give proper consideration to the recommendations set out by NHRC.
- 3.6 The Parties agree to give full consideration in the implementation of this Accord to the provisions set out in the “Minimum Immediate Steps for Human Rights Protection” of 10 March 2004 provided to the Government and to the “Minimum Immediate Steps for CPN-M to respect International Humanitarian Law and Human Rights Principles” of 27 May 2004 provided to CPN-M.

**CHAPTER IV - MISCELLANEOUS**

Nothing in this document shall affect or limit the mandate and powers of NHRC provided by the Human Rights Commission Act 2053 (1997).

- 4.1 For the implementation of the present Accord, the Parties may agree to sign additional accords, as deemed appropriate.
- 4.2 The Parties agree to each appoint liaison officers to ensure the smooth communication between each other and with NHRC.
- 4.3 Amendments to the present Accord can be made in writing at any time with the consent of both Parties and shall be informed to NHRC. Such amendments may not fall short below the minimum recognized international human rights and humanitarian standards.
- 4.4 Both Parties commit to ensure the present Accord is widely disseminated, respected and implemented, including by all their agents, affiliated agencies, supporters and sympathizers. The present Accord will be published in the local media in Nepal.
- 4.5 The National Human Rights Commission shall have the final authority to interpret any provision of the present Accord.
- 4.6 The present Accord shall come into force as from the date of its signature by both Parties.

Signed

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Communist Party of Nepal (CPN-M)

Government of Nepal

Date:.....